

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1814 of 2020

Arising Out of PS. Case No.-25 Year-2020 Thana- SC/ST District- Kaimur (Bhabua)

1. HARSH GUPTA Son of Mahendra Shah Resident of Village-Budawalia, Police Station-Bhabua, District-Kaimur (Bhabua).
2. Doma Sah Son of Late Baijnath Sah Resident of Village-Budawalia, Police Station-Bhabua, District-Kaimur (Bhabua).
3. Sunil Shah Son of Doma Sah Resident of Village-Budawalia, Police Station-Bhabua, District-Kaimur (Bhabua).
4. Nagendra Shah Son of Kapildeo Shah Resident of Village-Budawalia, Police Station-Bhabua, District-Kaimur (Bhabua).
5. Satish Shah Son of Late Jai Prakash Shah Resident of Village-Budawalia, Police Station-Bhabua, District-Kaimur (Bhabua).

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Kumar Sunil
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 03-12-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the appellants and Sri Sadanand Paswan, the learned Spl.P.P. for the State.

The present appeal has been preferred under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer



of anticipatory bail vide order dated 01.07.2020, passed by the learned Additional Sessions Judge 1st-cum-Special Judge, Kaimur (Bhabhua) in anticipatory bail petition no. 494 of 2020, arising out of Bettiah SC/ST PS case no. 25 of 2020 under Sections 341, 323, 379, 147, 148, 149, 504, 506 of Indian Penal Code and 3(1)(r)(s)(w)/ 3(2)(v-a) of SC/ST (POA) Act, 1989.

The allegation is that on the alleged date and time of occurrence, the appellants herein and other accused persons had caused hindrance while the informant was executing *Nal-Jal Yojna* and had demanded commission, however the informant had refused to pay the same, whereupon the accused persons had started abusing her by taking her caste name and then the appellants are stated to have assaulted the informant and her family members.

The learned counsel for the appellants has submitted that the appellants are innocent, have been falsely implicated in the present case and are having clean antecedent. The learned counsel for the appellants has submitted that the present cases arises out of case and counter case and as far as the injuries sustained by the injured persons are concerned, they are stated to be simple in nature. It is also submitted that a bare perusal of the FIR would show that there is no mention about



the specific caste name having been taken by the appellants for the purposes of abusing her, hence no case is made out under the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Per contra, the learned Spl.PP for the State vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the fact that a general and omnibus allegation has been levelled against the appellants herein, apart from the fact that neither the specific caste name used for the purposes of abusing the informant has been disclosed in the FIR nor the injury sustained by the injured persons are stated to be grievous in nature, this Court is *prima facie* of the view that no case is made out under the provisions of SC/ST (POA) Act, 1989 and moreover, sufficient grounds are available so as to admit the appellants to the privilege of anticipatory bail. Accordingly, let the abovenamed appellants, in the event of their arrest or surrender before the court below within a period of six weeks from the date of receipt/ production of a copy of this order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) each



with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge 1st-cum-Special Judge, Kaimur (Bhabhua) in connection with SC/ST (Bhabhua) PS case no. 25 of 2020, subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

Accordingly, the impugned order dated 01.07.2020 passed by the court of learned Additional District and Sessions Judge 1st-cum-Special Judge, Kaimur (Bhabhua) in connection with SC/ST (Bhabhua) PS case no. 25 of 2020 is hereby set aside.

The appeal stands allowed.

(Mohit Kumar Shah, J)

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