

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 1767 of 2020**

Arising Out of PS. Case No.-42 Year-2018 Thana- SC/ST District- Jehanabad

MD. NAUSHAD MIYAN @ MD. NAUSHAD @ NAUSHAD MIYAN S/o
Zafir Miyan @ Md. Zafir Uddin Resident of Village-Bara, P.S.-Kako,
District-Jehanabad.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Umesh Kumar

For the Respondent/s : Ms. Usha Kumari

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 26-11-2020 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 appellant and Ms. Usha Kumari, 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 29.02.2020, passed by the learned Additional Sessions Judge 1st, Jehanabad in anticipatory bail petition no. 207 of 2020, arising out of Jehanabad SC/ST PS case no. 42 of 2018 under Sections 337 and other allied sections



of Indian Penal Code and 3(1)(r)(s), 3(2)(v-a) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The allegation levelled by the informant is regarding his son having gone to see his D.J. trolley on 12.07.2018 and upon reaching at the alleged place of occurrence, he saw that the accused persons including the appellant herein were destroying the D.J. trolley and when he objected to the same, they started abusing and assaulted him and subsequently, the accused persons are also alleged to have arrived at the house of the informant and had engaged in pelting bricks.

The learned counsel for the petitioner has submitted that the appellant is innocent, has been falsely implicated in the present case and is having a clean antecedent. It is further submitted that the provisions of SC/ST Act are not attracted in the present case, inasmuch as there is no allegation of the appellant herein having abused the informant by taking his caste name. It is further submitted that a general and omnibus allegation of assault has been levelled against the appellant and infact, all the accused persons except the appellant herein have been granted the privilege of anticipatory bail by a co-ordinate Bench of this Court vide order dated 03.01.2019,



passed in Cr. Appeal (SJ) no. 4382 of 2018. Lastly, it is submitted that the police has also submitted a final form dated 31.01.2019, finding the case to be untrue as against the appellant herein, however the learned court below has taken cognizance against the petitioner under the offences alleged, differing with the final form submitted by the police, by an order dated 07.12.2019.

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 parity of the case of the appellant with that of the co-accused persons who have already been granted bail by a co-ordinate Bench of this Court, I deem it fit and proper to admit the appellant to the privilege of anticipatory bail. Accordingly, let the abovenamed appellant, in the event of his 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) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 1st, Jehanabad in connection



with Jehanabad SC/ST PS case no. 42 of 2018, subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

Accordingly, the impugned order dated 29.02.2020 passed by the court of learned Additional Sessions Judge 1st, Jehanabad in connection with Jehanabad SC/ST PS case no. 42 of 2018 is hereby set aside.

The appeal stands allowed.

(Mohit Kumar Shah, J)

rinkee/-

U		T	
---	--	---	--

