

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3354 of 2019

Arising Out of PS. Case No.-152 Year-2018 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

-
- 1.Md. Mister, s/o Md. Hamid @ Bokhari @ Bukhari.
 2. Md. Hamid @ Bokhari @ Bukhari, S/o Late Md. Azim.
 3. Md. Nirale s/o Md. Hamid @ Bokhari @ Bukhari
 4. Md. Palli, s/o Md. Anwar.
 5. Sd. Sitaree, s/o Md. Hamid @ Bokhari @ Bukhari.
 6. Md. Faiyaz, s/o Md. Hamid Bokhari.

All resident of Village- Manpura, P.S. National Highway Bangra, Dist, Samastipur.

... .. Appellant/s

Versus

- 1.The State Of Bihar
2. Rameshwar Mahto @ Fochai Mahto, s/o Late Butle Mahto, Resident of village- Goddopur, P.S. N.H. Bangra, District- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dilip Kumar Roy, Advocate.
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 13-02-2020 Heard learned counsel for the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for anticipatory bail vide order dated 11.07.2019 by the learned 1st Additional Sessions judge ,Samastipur in A.B.P. No. 1436/2019 arising out of Complaint Case No. 152/2018 registered under Sections 406 of the Indian Penal Code and Section 3(1) (r) (s)/ 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)Act,1989.



The complaint based allegation would reveal that complainant and appellant Md. Faiyaz were on business term. Both were engaged in selling tobacco by carrying the tobacco from the farmers to the market at Calcutta. Due to that business transaction tobacco was lent to appellant No. 1 and the cost of tobacco was not refunded that led to an altercation and abuse between the parties.

Learned counsel for the appellants submits that the background of allegation would reveal that the real dispute is of accounting arising out of the business transaction and not for the reason that the informant was a member of scheduled caste. The subsequent act was committed for the reason that the appellants allegedly took the money of the complainant and not for the reason that complainant was a member of scheduled caste. The Criminal prosecution has been launched to score the revenge arising out of civil dispute.

Learned counsel for the informant opposed the prayer for bail on the ground that prima facie accusation is there. Moreover, the court below has already taken cognizance in the matter.

I have gone through the judgment of the Hon'ble Supreme Court in Prathvi Raj Chauhan vs. Union of India and



others, wherein it is categorically mentioned that when it appears to the Court that the matter appears to be an abuse of the process of the court, the anticipatory bail may be considered in exercise of power under Section 482 Cr.P.C. In my view, the entire complaint petition reveals a case of civil dispute and criminal prosecution is an abuse of the process of the Court for the purpose of consideration of the prayer for anticipatory bail. The Court below has not considered this aspect of the matter.

Considering the aforesaid facts, let the appellants, above named, in the event of their arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the appellants shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellants.

The appellants shall not leave the country without permission of the trial court.



Accordingly, the impugned order is set aside and the appeal is allowed.

(Birendra Kumar, J)

Sonali/-

U			
---	--	--	--

