

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4052 of 2019

In
CRIMINAL MISCELLANEOUS No.29617 of 2019

Arising Out of PS. Case No.-329 Year-2018 Thana- FATEHPUR District- Gaya

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VIVEK YADAV @ VIVEK KUMAR, Male, aged about 20 years, Son of Mahendra Yadav Resident of Village - Charka Patthar, P.S.- Fetehtpur, Distt - Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Binod Kumar

For the Respondent/s : Mr.Usha Kumari 1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 06-01-2020 Heard learned counsel for the appellant and learned Special Public Prosecutor for the State.

The appellant in the present appeal is seeking anticipatory bail in connection with Fatehtpur P.S. Case No. 329 of 2018 registered under Sections 341, 323, 504, 379/34 of the Indian Penal Code and Section 3(i)(x) of the SC/ST Act.

Learned counsel for the appellant submits that in the first information report there are three accused against whom the informant has made general and omnibus allegation that they had abused him taking his caste name. The specific allegation of giving an assault by a Bamboo is against co-accused Sudhir Yadav. Learned counsel submits that so far as



this appellant is concerned, although there is allegation that when the informant fell down this appellant and other co-accused Akhilesh Yadav had also assaulted by Lathi but it would appear that the F.I.R. has been registered under the bailable sections of the I.P.C. save and except Section 379 I.P.C. and the SC/ST Act.

It is further submitted that in the impugned order passed by the learned Special Judge, SC/ST, Gaya no injury has been noticed by the learned Sessions Judge and the application for anticipatory bail has been rejected only on the ground of maintainability.

Learned Special P.P. for the State has while opposing the anticipatory bail application submits that there are allegations of assault against this appellant.

Considering the facts and circumstances of the case wherein it is the submission of learned counsel for the appellant that the allegation of taking caste name is only vague and the specific allegation of assault is against the co-accused Sudhir Yadav and no injury has been noticed by the learned Special Judge, Gaya and the case has been registered under the bailable provisions of the Indian Penal Code save and except one under Section 379 I.P.C., let the impugned order be set-aside and the



application be allowed, in the event of his arrest/surrender before the court below within a period of four weeks, let the above-named appellant be enlarged on bail furnishing bail bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST, Gaya, in connection with Fatehpur P.S. Case No. 329 of 2018, subject to condition as laid down under Section 438(2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

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