

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4193 of 2019**

Arising Out of PS. Case No.-22 Year-2018 Thana- LODIPUR District- Bhagalpur

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AJAY YADAV Son of Raja Yadav Resident of Village - Basantpur, P.S.-
Lodipur, District - Bhagalpur.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajive Ranjan Singh, Advocate
For the Respondent/s : Mr. Usha Kumari-1, Spl. P.P.

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 29-01-2020

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 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 06.08.2019 in Lodipur P.S. Case No. 22 of 2018 passed by the learned 3rd Additional Sessions Judge-cum-Spl. Judge, Bhagalpur, in connection with the aforesaid case registered under Sections 147, 148, 149, 323, 307, 504 of the Indian Penal Code, Section 27 of the Arms Act as well as Sections 3(2)(v) of the SC/ST Act.

According to FIR, a cultural programme was going on in the night of 15-16 February, 2018. Some boys created nuisance by damaging chairs etc. For the aforesaid occurrence on 18.02.2018, a *Panchayati* was going on at the referred place. In the meantime,



the named accused persons including the appellant variously armed, came there and started hurling abuse. They even caused firing. The firing made by the crowd of 15 persons caused injury at the thigh of Lal Chand Mandal, at the knee of Chintu Paswan and at the right hand of the informant. Some other persons were also assaulted by the mob.

Submission of the learned counsel for the appellant is that the FIR would show that the occurrence did not take place for the reason that informant was a member of the scheduled caste or scheduled tribes. Rather for different reasons, the occurrence of assault and firing was committed and the allegation is not specific against anyone including the appellant. Therefore, the offence under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not made out for the purpose of consideration of the prayer for anticipatory bail. Further submission is that the learned Special Judge did not consider the factual position of this case correctly while refusing the prayer for anticipatory bail.

Learned Special Public Prosecutor opposed the prayer for bail.

I find substance in the submission of learned counsel for the appellant. Co-accused Sanjay Yadav and others have been



allowed anticipatory bail by a Coordinate Bench of this Court vide order dated 05.02.2019 passed in Cr. Appeal (SJ) No. 4855 of 2018. Hence, let the appellant, above named, in the event of his arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.20,000/- (rupees twenty thousand) 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 appellant 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 appellant as well as condition that both the bailors shall be resident of the territorial jurisdiction of the learned court below.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	01.02.2020
Transmission Date	01.02.2020

