

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4342 of 2019

Arising Out of PS. Case No.-44 Year-2019 Thana- SC/ST District- Jehanabad

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1. BITHAL SHARMA @ SHYAM NANDAN SHARMA Son of Ramuday Sharma
 2. Shailendra Sharma Son of Haridwar Sharma
Both are Resident of Village - Sisra, P.S.- Ghosi, Distt.- Jehanabad.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ram Swarup Prasad, Adv
For the Respondent/s : Mr.Sadanand Paswan,APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 25-02-2020 Heard learned counsel for the parties.

This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by order dated 04.09.2019 in A.B.P. No.1082 of 2019 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Jehanabad in connection with (Jehanabad) SC/ST Act Case No.44 of 2019 registered under Sections 341, 323, 324, 504, 354, 506 of the Indian Penal Code and Sections 3(i)(r)(s)(w) (v)3(2)(Va) of the Scheduled Castes and Scheduled Tribes Act, 2016.

The FIR prima facie discloses accusation of



commission of offence under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as the appellants allegedly assaulted to the informant. Hence, offence under Section 3(2) (va) read with the Schedule of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is prima facie made out.

Learned counsel for the appellants submits that the case diary would reveal that some of the witnesses stated before the police that place of occurrence was the pond of the appellants. The allegation is not corroborated by any medical report. Further submission is that independent witnesses have stated before the police that false allegation has been levelled.

However, it is not disputed that in the past also informant had lodged the criminal case against the appellants and allegation is that for withdrawal of that case, the occurrence was committed.

Once prima facie accusation is there, the bar of entertainment of prayer for anticipatory bail as contained in Section 18 of the Act is applicable. Therefore, in an application under Section 438 Cr.P.C., correctness of the allegation or reason for making such allegation cannot be looked into. The conflicting material coming during investigation shall be subject



matter of trial or other jurisdiction according to law.

Therefore, I do not find any merit in this appeal against refusal of the prayer for anticipatory bail. Accordingly, it stands dismissed.

However, in the event of surrender of the appellants, their prayer for regular bail shall be considered without being prejudiced by this order and especially taking note of the submission of the appellants advanced above.

(Birendra Kumar, J)

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