

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5173 of 2019

Arising Out of PS. Case No.-85 Year-2017 Thana- THAKRAHA District- West Champaran

1. RAJESH YADAV, Son of Hari Kishun Yadav @ Hari Krishna Yadav
2. Hari Krishna Yadav @ Hari Kishun Yadav, Son of Late Devan Yadav
3. Sugiya Devi, Wife of Hari Kishun Yadav @ Hari Krishna Yadav
4. Kamlesh Yadav, Son of Hari Kishun Yadav @ Hari Krishna Yadav, all Residents of Village Chotaki Rupahi, P.S. Bhitaha, District - West Champaran.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Gauri Shankar Thakur, Advocate
For the Respondent/s : Mr. Usha Kumari I, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 05-02-2020

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 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 27.09.2019 in A.B.P. No. 2320 of 2019 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T./POSCO, West Champaran at Bettiah in connection with Thakaraha P.S. Case No. 85 of 2017 registered under Sections 447, 341, 323, 504/34 of the Indian Penal Code as well as Sections 3(1)(x)(xi) of the SC/ST Act.

According to FIR, the dispute between the parties cropped up when a boy had plucked mangoes from the tree of another party. For



that reason, allegation is of commission of abuse by taking caste name of the informant as well as commission of assault against the informant by all the appellants.

Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is specific that when there is accusation of commission of offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, an application under Section 438 Cr.P.C. would not be maintainable. If the application is not maintainable, it cannot be argued that the background of the accusation is the counter case alleged by the appellants' side or the allegation made in the FIR is palpably false and not acceptable.

Therefore, I do not find anything to interfere with the impugned order of refusal of prayer for anticipatory bail. Accordingly, this appeal stands dismissed as devoid of any merit.

However, in the event of surrender and prayer for regular bail by the appellants, the court below shall consider the same without being prejudiced by this order and on its own merit.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	07.02.2020
Transmission Date	07.02.2020

