

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5593 of 2019

Arising Out of PS. Case No.-16 Year-2018 Thana- DAWATH District- Rohtas

ASHOK KUMAR TIWARI @ ASHOK TIWARI S/o- Girajanand Tiwari
Resident of Village- Parmanpur, Post- Amehta, P.S.- Dawath, District- Rohtas.
... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Pradeep Ram S/o- Late Khobhari Ram Resident of Village- Parmanpur,
Post- Amehta, P.S.- Dawath, District- Rohtas. Respondent/s

Appearance :

For the Appellant/s : Mr.Bijay Shankar Choubey, Adv
For the Respondent/s : Mr.Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 18-06-2020 The matter has been taken up through video conferencing. 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 05.11.2019 in Reg. Case No.48 of 2018 passed by the learned Additional District and Sessions Judge-I, Rohtas, Sasaram in connection with Dawath P.S.Case No. 16 of 2018 registered under Sections 323,341,379,385,504 of the Indian Penal Code as well as under Sections 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes Act.

For the occurrence alleged, initially Dawath P.S.Case No.16 of 2018 was registered under Sections 341,323,504,385 and 379 of the Indian Penal Code as well as



under Sections 3(i)(s)(r) of the Scheduled Castes and Scheduled Tribes Act. After investigation, the police submitted final form and later on, the protest petition filed by the informant was treated as complaint case and in complaint case, cognizance has been taken against the appellant. Hence, prayer for anticipatory bail is in the complaint case.

The case of the complainant is that on 15.02.2018, the complainant was performing the work under the Government Scheme of “Nal Jal Yojana”. At the same time, the appellant appeared and asked the complainant as to how he was there to perform the work without his permission and abused to the complainant by taking his caste name.

Learned counsel for the appellant submits that the material available on the record would prima facie show that this is a case of abuse of the process of law and false and concocted allegation is there just to get the public work completed in the manner desired by the complainant and not as sanctioned.

Learned counsel for the appellant has drawn attention of the Court to Annexure-6 and submits that for the first time, meeting of Execution Management Committee was held on 15.03.2018 wherein the complainant was also present in



the capacity of Secretary and it was decided that since fund has come, the work under “Nal Jal Yojana” be started. Thereafter, the work might have been allotted to the Secretary, though it was wholly illegal that the financial work was started by a decision taking authority. He further submits that in the case of **Prathvi Raj Chauhan Vs Union of India, Writ Petition (C)No.1015 of 2018**, the Hon’ble Supreme Court said that normally anticipatory bail should not be granted when a prima facie case is made out. However, if the facts and circumstances of the case makes out a case of the abuse of the process of law, the Constitutional Courts cannot remain silent to allow justice in the matter.

Learned counsel for the informant opposed the prayer for anticipatory bail on the ground that prima facie offence under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out in the present facts and circumstances of this case. Hence, bar under Sections 18 and 18A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is applicable.

In the present case, the available record does not show that on the date of alleged performance of work, any work was allotted to the complainant. Hence, serious doubt is there in



the prosecution version. Moreover, the police has also doubted the prosecution allegation during investigation of the case.

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 (Twenty Thousand) with two sureties of the like amount each to the satisfaction of 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 and further the appellant shall fully cooperate with the investigation/trial of the case and also the appellant shall not leave the country without permission of the learned Trial Court, failing which the court below shall be at liberty to cancel the bail bond of the appellant.

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

(Birendra Kumar, J)

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