

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.189 of 2020

Arising Out of PS. Case No.-70 Year-2018 Thana- SC/ST District- Purnia

1. SANJAY MANDAL @ SANJAY KUMAR MANDAL Son of Kapil Mandal Resident of Village- Singhia, P.S.- K. Nagar, District- Purnea.
2. Parveen Mandal @ Praveen Mandal Son of Kapil Mandal Resident of Village- Singhia, P.S.- K. Nagar, District- Purnea.
3. Pappu Mandal Son of Kapil Mandal Resident of Village- Singhia, P.S.- K. Nagar, District- Purnea.
4. Fakir Mandal Son of Late Mishri Mandal Resident of Village- Singhia, P.S.- K. Nagar, District- Purnea.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ajit Kumar Singh, Adv.
For the State : Mrs. Usha Kumari, SPP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 23-12-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the appellants and Mrs. Usha Kumari, learned Special P.P. for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribe



(Prevention of Atrocities) Act, 1989 against the order dated 16.11.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, Purnea in Anticipatory Bail Petition No. 78 of 2019 arising out of SC/ST Case No. 70 of 2018 registered under Sections 147, 148, 149, 323, 379, 380, 457, 504 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, whereby and whereunder the prayer of the appellants for grant of anticipatory bail has been refused.

The case of the prosecution in brief is that the land in question is registered in the name of the father of the complainant-informant and Sri Hari Lal Mushar was continuing in possession of the said land and thereafter, his four sons have come into possession. It is also stated that on the said land, the house of one Sri Tuntun Rishideo is present and half of the land is used for agricultural purposes whereas the other three brothers stay at another place, in a house constructed by them over the land of Government of Bihar. It is further



alleged that adjacent to the boundary of the said land, land of Sattan Mandal and Ram Deo Mandal is present and Sanjay Mandal and others always threaten him to vacate the land and also intimidate him by saying that they would break his house. It is also alleged that on 15.05.2018, the accused persons including the appellants herein had abused the informant and entered his house as also had taken away grains, utensils etc.

The learned counsel for the appellants has submitted that the appellants are innocent, they have been falsely implicated in the present case and they are having clean antecedent. The learned counsel for the appellants has submitted that the police, after investigation, had submitted a final form dated 31.01.2019, as against the appellants herein, finding the case in question to be untrue. It is also submitted that a general and omnibus allegation has been levelled against the appellants herein and there is no allegation of the appellants having abused the informant by taking his caste name, hence, it is submitted that the provisions of



the Scheduled Caste and Scheduled Tribe(Prevention of Atrocities) Act, 1989 are not attracted in the present case.

Per contra, the learned Special P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the appellants and taking into account the fact that the police, upon investigation, has found the case in question to be untrue and there is no allegation of the appellants having abused the informant by taking his caste name and moreover, a general and omnibus allegation has been levelled against the appellants herein, I deem it fit and proper to direct for release of the appellants on anticipatory bail.

Accordingly, the appellants, above named, are directed to be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Cum Special Judge, SC/ST Act, Purnea in



connection with A.B.P. No. 78 of 2019 arising out of SC/ST P.S. Case No. 70 of 2018 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

Consequently the impugned order dated 16.11.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, Purnea in Anticipatory Bail Petition No. 78 of 2019 arising out of SC/ST Case No. 70 of 2018 is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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