

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.620 of 2020

Arising Out of PS. Case No.-87 Year-2017 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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1. SHEO YADAV Son of Late Faudar Yadav, Resident of Village - Tarar, P.S.- Daudnagar, District- Aurangabad
 2. Smt. Pano Devi Wife of Sheo Yadav, Resident of Village - Tarar, P.S.- Daudnagar, District- Aurangabad
 3. Pintu Yadav Son of Sheo Yadav, Resident of Village - Tarar, P.S.- Daudnagar, District- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Birju Chaudhary Son of Late Sitaram Chaudhary, Resident of Village - Tarar, P.S.- Daudnagar, District- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Subodh Kumar Sinha, Adv.
For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 05-03-2021 Heard learned counsel for the appellants and learned
Special P.P.

The appellants filed this appeal under Section 14A(2) of the SC/ST (POA) Act against the order dated 19.12.2019 passed in A.B.P. No.1538 of 2019 by which the learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Aurangabad rejected the prayer for grant of anticipatory bail of the appellants in Complaint Case No.87 of 2017 registered under Sections 3(1)(r)(s)(w), 3(2)(va) of the SC/ST (POA) Act.

Learned counsel for the appellants submits that the



complainant alleged that while his wife was bathing, Pintu Yadav was snapping her naked photo for which the altercation took place. The accused persons assaulted the complainant and his family members. It is further submitted that the occurrence is said to have taken place on 07.07.2017 at about 8:00 in the morning but the complaint petition was filed on 13.07.2017. There is a counter version being Complaint Case No.338 of 2017. The appellants are the neighbours of the complainant. There is a dispute with regard to egress and ingress. The complainant has filed this case making false and concocted story.

Learned Special P.P., however, opposed the prayer for anticipatory bail and submits that on the complaint petition filed by the complainant, the Court found prima facie case under different sections of the SC/ST Act in view of the law laid down by the Hon'ble Apex Court in the case of Bachu Das and held that the anticipatory bail petition is not maintainable but at the same time, learned Special P.P. submits that in the case of Dr. Subhash Kashinath Mahajan, the Apex Court has held that if there is a land dispute and there appears on the face that on account of enmity the case has been lodged, the anticipatory bail can be granted.



From the facts of the case, it appears that the appellants and the complainant are next door neighbours and there is a counter version which shows that both sides entered into a scuffle for egress and ingress of their houses.

Taking into consideration the facts aforesaid, I find that the appellants deserve anticipatory bail. Accordingly, the order dated 19.12.2019 is set aside. The appeal is allowed. The appellants above named, in the event of their arrest or surrender before the learned court below within a period of four weeks from the date of receipt/production of a copy of this order, are directed to be enlarged on bail on furnishing bail bonds 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), Aurangabad in A.B.P. No.1538 of 2019 arising out of Complaint Case No.87 of 2017, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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