

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.704 of 2020

Arising Out of PS. Case No.-20 Year-2018 Thana- SC/ST District- Bhagalpur

1. SANJAY CHOUDHARY @ SANJAY CHOUDHARI S/o Late Bhola Choudhary, Resident of Rannuchak, P.S.- Nath Nagar, Distt- Bhagalpur.
2. Batohi Choudhary @ Ramanand Choudhary S/o Late Bhola Choudhary, Resident of Village- Rannuchak, P.S.- Nath Nagar, Distt- Bhagalpur.
3. Puskar Ray S/o Rajendra Prasad Ray, Resident of Rannuchak, P.S.- Nath Nagar, Distt- Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Abul Kalam, Adv.
For the State	:	Mr.Sadanand Paswan, Spl.P.P.
For the Informant	:	Mrs. Pravina Kumari, Adv.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 15-03-2021 Heard learned counsel for the appellants, learned Special P.P. and learned counsel for the informant.

The appellants filed this appeal under Section 14A(2) of the SC/ST (POA) Act against the order dated 21.01.2020 passed in A.B.P. No.2831 of 2019 by which the learned Special Judge (POCSO), Bhagalpur rejected the prayer for grant of anticipatory bail of the appellants in Bhagalpur SC/ST P.S. Case No.20 of 2018 registered under Sections 341, 323, 354B, 504, 34 of the I.P.C. and under Section 8 of the POCSO Act as well as under Sections 3(1)(s), w(1), 3(2) (va) of the SC/ST Act.

The informant alleged that while he was going along



with his minor daughter to the house of his relative, all the accused persons (appellants) came and tried to kidnap his minor daughter. His minor daughter raised alarm. Sanjay Choudhary (appellant no.1) abused her by naming her caste and assaulted on her back. He also threatened the informant to kill both of them, if the informant raised any voice. Pravin Kumar Ray and Ravindra Kumar came there and saved the informant's daughter.

Learned counsel for the appellants submits that of course Sanjay Choudhary (appellant no.1) has got criminal antecedent and he is accused in as many as six criminal cases but the informant is a blind man and he used to lodge case after cases against many other persons. It is further submitted that no specific allegation is made against Batohi Choudhary @ Ramanand Choudhary and Puskar Ray. Pravin Kumar Ray was a partner. Some dispute arose between the two partners and, therefore, at the instance of Pravin Kumar Ray, many cases have been lodged against Sanjay Choudhary. Therefore, the appellants deserve anticipatory bail.

Learned Special P.P. as well as learned counsel for the informant, however, opposed the prayer for anticipatory bail and submitted that out of six criminal cases, one case is lodged by a police officer and second case is lodged by a mining officer and



four other cases are also lodged by different persons. It is further submitted that the police submitted final form but the Court took cognizance on the basis of the materials available on record. Therefore, the appellants do not deserve anticipatory bail.

It appears that Sanjay Choudhary (appellant no.1) has got criminal antecedent. The informant made specific allegation that it was Sanjay Choudhary, who tried to kidnap the minor daughter of the informant.

Taking into consideration the facts aforesaid, I am not inclined to enlarge the appellant no.1, namely, Sanjay Choudhary on anticipatory bail. Accordingly, the prayer for anticipatory bail of appellant no.1 is rejected.

So far the case of appellant nos.2 and 3 (Batohi Choudhary @ Ramanand Choudhary and Puskar Ray) is concerned, they are of course named in the F.I.R. but specific allegation is made only against Sanjay Choudhary (appellant no.1). The police after investigation submitted final form finding the accusation against the appellants false but the Court in seisin of the case took cognizance on the basis of the statement made by the victim under Section 164 of the Cr.P.C. The victim did not make any specific allegation against appellant nos.2 and 3.



Taking into consideration the facts aforesaid and the fact that appellant nos.2 and 3 have got no criminal antecedents, appellant nos.2 and 3 deserve anticipatory bail. Accordingly, the order dated 21.01.2020 is set aside to the extent indicated above. The appeal is allowed. The appellant nos.2 and 3 (Batohi Choudhary @ Ramanand Choudhary and Puskar Ray), 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 Additional Sessions Judge I-cum-Special Judge (POCSO), Bhagalpur in connection with Bhagalpur SC/ST P.S. Case No.20 of 2018, 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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