

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 1179 of 2020

Arising Out of PS. Case No.-257 Year-2019 Thana- DELHA District- Gaya

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Pintoo Kumar, aged about 24 years, Male Son of Umesh Prajapati @ Umesh Kumar, resident of Kali Mandir Road, Chhotaki Nawada, PS- Delha, District - Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Kunwar Narayan Jamuar, Advocate
For the State : Mr. Sadanand Paswan, Special PP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 27-09-2021

The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the appellant, which was allowed.

2. Heard Mr. Kunwar Narayan Jamuar, learned counsel for the appellant and Mr. Sadanand Paswan, learned Special Public Prosecutor (hereinafter referred to as the 'Special PP') for the State.

3. The present appeal is directed against the order dated 14.11.2019 passed by the learned Exclusive Special Judge, SC/ST, Gaya in ABP No. 281 of 2019 by which prayer for anticipatory bail of the appellant has been rejected.



4. The appellant apprehends arrest in connection with Delha PS Case No. 257 of 2019 dated 09.09.2019, instituted under Sections 341, 323, 504, 506 and 354B/34 of the Indian Penal Code, 1860 and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'SC/ST Act').

5. The allegation against the appellant, two other named and six unknown persons, is of stopping the vehicle of the informant who was riding on a two-wheeler driven by one Anand Kumar, is of assaulting them with belt and also trying to outrage her modesty.

6. Learned counsel for the appellant submitted that the allegation is false. It was contended that the appellant is the neighbour of the informant and, thus, the allegation becomes all the more improbable that he would commit such a crime knowing fully well that he would be identified. Learned counsel submitted that no time has been mentioned as to when the incident occurred and most importantly, the invocation of the SC/ST Act is totally misplaced as no ingredient of any offence under the SC/ST Act is made out. Learned counsel submitted that no injury report has also been brought before the police to substantiate such assault. He summed up his arguments by submitting that besides the appellant



not having any criminal antecedent, the bar of Section 18 of the SC/ST Act would not apply as no ingredient of any offence under the SC/ST Act is made out from a plain reading of the FIR.

7. Learned APP submitted that the appellant along with others has assaulted the informant with belt and also tried to outrage the modesty. However, it was not controverted that from the FIR, offence under the SC/ST Act *prima facie* cannot be said to be made out.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the fact that the appellant is a neighbour and no allegation that the appellant has committed any offence deliberately against a person belonging to the SC category and also there being no injury report and the appellant not having any other criminal antecedent, the Court is inclined to allow the prayer.

9. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the appellant be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST, Gaya in Delha PS Case No. 257 of 2019 subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure,



1973 and further, (i) that one of the bailors shall be a close relative of the appellant, (ii) that the appellant and the bailors shall execute bond and give undertaking with regard to good behaviour of the appellant and (iii) that he shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the appellant, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellant.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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