

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2401 of 2021

Arising Out of PS. Case No.-136 Year-2020 Thana- KARAI PARSURAI District- Nalanda

ARJUN THAKUR, S/o Late Saryug Thakur Resident of Village- Jalalpur,
P.S.- Karai Parasurai, District- Nalanda.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Prerna Rishi- Advocate Mr. Patanjali Rishi- Advocate
For the Respondent/s	:	Mr. Sadanand Paswan- S.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 06-10-2021 Heard Ms. Prerna Rishi, the learned Advocate for

the appellant and Mr. Sadanand Paswan, the learned Special

Public Prosecutor for the State.

The appellant has challenged the order dated 19.02.2021 passed by the learned Additional District and Sessions Judge-1-cum-Special Judge, SC/ST, Nalanda in connection with Karai Parasurai P. S. Case No.136 of 2020, instituted for the offences under Sections 362, 365 r/w 34 of the Indian Penal Code and later on, Sections 302 and 201 of the I.P.C. and Section 3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.



This Court had called for the case diary on 13.08.2021 which has since been received.

The informant has alleged that his son, a toddler, was playing in front of his house but was not to be seen thereafter. He suspected the hands of six persons including the petitioner who had earlier threatened him that his son would be killed. With this accusation, the appellant is sought to be prosecuted in this case.

The learned Advocate for the appellant has submitted that beyond wild suspicion, there is no material in the entire police papers to connect the appellant with the offence. Assuming but not admitting, it has been urged that the appellant and others had, on an earlier occasion threatened the informant regarding the life of his son but such threatening was *brutum fulmen*.

Apart from this, it has been submitted that most of the witnesses have only repeated what the informant has stated in the F.I.R. One of such witnesses is one Lallu Mistry, who has definite animus against the appellant. A case had been lodged against the aforesaid Lallu Mistry, the detail of which has been provided in the bail petition, in which the appellant and others are witnesses.



Apart from this, it has been argued that there is nothing on record to bring home the mischief of SC/ST (P.O.A.) Act.

Two of the similarly situated accused persons have been granted regular bail.

Mr. Sadanand Paswan, the learned Special Public Prosecutor on the contrary, has submitted that there is a reason for naming the appellant and others in this case. In the past, the appellant and others had threatened the informant of dire consequences. He has further submitted that two other persons have been granted regular bail and therefore the privilege of anticipatory bail ought not to be given to the appellant.

After having heard the learned counsel for the parties and having perused the police papers, it appears that except for suspicion, there is no other material to connect the appellant with the offence. True it is that two of the accused persons have been granted regular bail, nonetheless, it would serve no purpose at this stage to make the appellant surrender and seek bail. There is nothing on the record to indicate that any one of the provisions of SC/ST (P.O.A.) Act was ever breached.



For the reasons afore-noted, the order dated 19.02.2021 is set-aside.

The appeal stands allowed.

The appellant, above-named, in the event of his arrest or surrender before the learned Court below within a period of eight weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-1-cum-Special Judge, SC/ST East Champaran at Motihari in connection with Karai Parasurai P. S. Case No.136 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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