

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1764 of 2020

Arising Out of PS. Case No.-22 Year-2020 Thana- SC/ST District- Nalanda

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1. HIMALAY KUMAR @ ANAND KISHORE S/o Late Anil Prasad Resident of Village-Barakar, Police Station-Rajgir, District-Nalanda.
 2. Pranav Kumar S/o Kameshwar Mahto Resident of Village-Barakar, Police Station-Rajgir, District-Nalanda.
 3. Rohit Kumar @ Amar Kumar S/o Dashrath Mahto Resident of Village-Barakar, Police Station-Rajgir, District-Nalanda.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ganesh Sharma, Advocate

For the Respondent/s : Mr. Vinay Krishna, Special PP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 08-01-2021 Heard the learned counsel appearing for the appellants and Shri Vinay Krishna, learned Special P.P. for the State.

At the outset, the learned counsel for the appellants seeks to withdraw the present appeal qua the appellant no. 3.

Accordingly, the present appeal qua the appellant no. 3 stands dismissed as not pressed.

This is an appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order dated 13.08.2020 passed by the learned Additional Sessions Judge-1-cum-Special Judge, SC/ST Act, Bihar Sharif, Nalanda in Anticipatory Bail Petition No. 1084 of 2020 arising out of Nalanda SC/ST P.S. Case No. 22 of 2020 registered under Sections 147, 447, 341, 323, 354(A), 379, 307,



148, 504, 337, 338 and 506 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i) (r) (s), (x), 3 (2) (Va) 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 allegation is regarding the accused persons including the appellants herein having arrived at the house of the informant and having insisted for cutting the paddy crops in the field, however, on account of COVID-19 Pandemic, the informant and his family members refused to do so whereupon the husband of the informant was abused and the co-accused persons namely Pramod Kumar and Raja Kumar had badly assaulted the husband of the informant resulting in him sustaining grievous injuries.

The learned counsel for the appellants has submitted that the appellants are innocent, have been falsely implicated in the present case and are having clean antecedent. The learned counsel for the appellant has further submitted that as far as the appellant nos. 1 & 2 are concerned, there is no allegation of assault, however, the allegation of assault is on the co-accused persons. It is further submitted that no caste specific name, alleged to have been used by the accused persons, has been



disclosed, hence no offence is made out under the provisions of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

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 and taking into account the fact that there is no allegation of assault qua the appellant nos. 1 & 2 and moreover no specific caste name has been disclosed by the informant which is alleged to have been taken for the purposes of abusing the informant, I find that no prima facie case is made out under the provisions of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, as against the appellant nos. 1 & 2 herein, hence I deem it fit and proper to admit the appellant nos. 1 & 2 herein to the privilege of anticipatory bail.

Accordingly, the appellant nos. 1 & 2, 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 Additional Sessions Judge-1-cum-Special Judge SC/ST Act, Bihar Sharif, Nalanda in connection with Nalanda SC/ST P.S. Case No. 22 of



2020 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

Consequently the impugned order dated 13.08.2020 passed by the learned Additional Sessions Judge-1-cum-Special Judge, SC/ST Act, Bihar Sharif, Nalanda in Anticipatory Bail Petition No. 1084 of 2020 arising out of Nalanda SC/ST P.S. Case No. 22 of 2020, is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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