

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1882 of 2020**

Arising Out of PS. Case No.-2 Year-2020 Thana- SC/ST District- Gaya

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1. Ramjee Yadav S/o Late Vikram Yadav Resident of Village-Turi Bugurg, P.S.-Magadh University Bodh Gaya, District-Gaya.
 2. Pokhan Yadav S/o Late Vikram Yadav Resident of Village-Turi Bugurg, P.S.-Magadh University Bodh Gaya, District-Gaya.
 3. Surydeo Yadav S/o Late Vikram Yadav Resident of Village-Turi Bugurg, P.S.-Magadh University Bodh Gaya, District-Gaya.
 4. Kamlesh Yadav S/o Late Ballu Yadav Resident of Village-Turi Bugurg, P.S.-Magadh University Bodh Gaya, District-Gaya.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr.Kunwar Narayan Jamuar, Advocate
For the Respondent/s : Mr. Binay Krishna, SlpPP.

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 12-03-2021

Heard learned counsel for the appellants and
learned Special Public Prosecutor for the State.

2. This appeal under Section 14A(2) of the Scheduled Castes and the Schedules Tribes (Prevention of Atrocities) Act, 1989 (for short 'the SC/ST Act') has been filed by the appellants challenging the order dated 29.06.2020 passed by the learned Exclusive Special Judge, SC/ST, Gaya in ABP No. 88 of 2020 whereby their prayer for grant of pre-arrest bail



in connection with SC/ST P.S. Case No.02 of 2020 has been rejected.

3. SC/ST P.S. Case No.02 of 2020 was registered on 13.01.2020 under Sections 341, 323, 420, 467, 468, 504 and 506/34 of the Indian Penal Code and Section 3(1)(r)(s) of the SC/ST Act.

4. Initially, a complaint was filed by one Ajay Kumar son of Surendra Das vide Complaint Case No.105 of 2019 in the court of Special Judge, (SC/ST) Gaya on 09.12.2019 in respect of an incident which had allegedly taken place on 05.10.2019. In the complaint, it was stated that the accused persons widely circulated that they intended to sell their plot measuring 6800 sq. feet in Mauza Mocharim, P.S. Bodhgaya, District- Gaya. The complainant expressed their desire to purchase the said land. The negotiation between the parties for the plot was finalized for Rs.22,50,000/- and an agreement was executed in this regard on 16.05.2019. At the time of agreement, he paid Rs.1,01,000/-. Thereafter, on 01.06.2019, he paid Rs.25,000/-. However, after execution of agreement, the accused persons refused to execute the sale deed on one pretext or other. In spite of repeated requests, they neither executed the sale deed nor returned his amount. He alleged that on 05.10.2019, he went



to the house of the accused persons but they abused and assaulted him taking his caste name.

5. The said complaint was referred by the learned Special Judge, Gaya to the police in exercise of powers conferred under Section 156(3) of the Code of Criminal Procedure pursuant to which the FIR was instituted.

6. Learned counsel appearing for the appellants submitted that the entire prosecution case launched against the appellants is malicious. The allegations made in the complaint would show that the ingredients of the offences are not attracted. Since the complainant failed to make payment within the stipulated time mentioned in the agreement, the sale deed was not executed. He contended that the allegation of using abusive word or assault are superfluous and has been made in order to make the offence serious. The falsity of the case would also reflect from the fact that if the incident of abuse or assault had taken place on 05.10.2019 as to why the complaint was filed before the court on 09.12.2019. Lastly, he contended that at best, it is predominantly a case of civil nature, which has been given a colour of criminal offence in order to humiliate and harass the accused persons.

7. Learned Special Public Prosecutor for the



State has opposed the prayer for grant of pre-arrest bail to the appellants.

8. Having heard the parties and perused the material on record, I find force in the submissions made by the learned counsel for the appellants.

9. Apart from the undue delay caused in institution of the complaint, I also find that the allegation is not that the incident had taken place in any public view.

10. Furthermore, since the allegations made against the appellants are predominantly of civil in nature, I am of the opinion that the appellants deserve to be granted pre-arrest bail.

11. In that view of the matter, the impugned order dated 29.06.2020 passed by the learned Exclusive Special Judge, SC/ST, Gaya in ABP No. 88 of 2020 arising out of SC/ST P.S. Case No.02 of 2020 rejecting the prayer for grant of pre-arrest bail of the appellants is set aside.

12. The appellants are directed to be released on bail, in the event of their arrest or surrender, on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST, Gaya in connection with



SC/ST P.S. Case No.02 of 2020, subject to the conditions as laid
down under Section 438(2) of the Code of Criminal Procedure.

13. The appeal stands allowed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.03.2021
Transmission Date	17.03.2021

