

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3321 of 2021**

Arising Out of PS. Case No.-72 Year-2021 Thana- BANIAPUR District- Saran

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LALAN SAH S/o Prahlad Sah R/o village- Harpur, P.S.- Baniyapur, District- Saran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Harsh Anuj- Advocate
For the Respondent/s : Mr. Sadanand Paswan- S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 07-09-2021 Heard Mr. Harsh Anuj, 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
17.06.2021 passed by the learned 1st Additional Sessions
Judge-cum-Special Judge SC/ST (POA) Act, Saran at
Chapra in connection with Baniapur P. S. Case No.72 of
2021, instituted for the offences under Sections 341, 323,
307, 325, 504/ 34 of the Indian Penal Code and Section 3(1)
(r)(s)2(v) of the Scheduled Castes & Scheduled Tribes
(Prevention of Atrocities) Act, 1989, whereby their prayer
for grant of anticipatory bail has been rejected.

It has been alleged in the F.I.R. that the informant
while coming back from the market, spotted the appellant



and two others breaking the wall of her house. When this was protested, a fight took place and the appellant is said to have assaulted the informant as a result of which she suffered fracture in her hand. There is a counter-version of the occurrence as well and persons from the side of the appellant also have received injuries.

The learned Advocate for the appellant has submitted that there was a fight between the two sides and taking advantage of the injury which the informant received as a result of her fall on the ground, she has tried to implicate the appellant and others. No doubt, the accusation in the F.I.R. against the appellant is of assaulting the informant by means of *lathi* which has resulted in fracture but in the background which has been narrated in the counter-case, it would become very clear that the injury may have been received by the informant in a different manner than what has been alleged in the F.I.R.

So far as the accusation under the SC/ST (P.O.A.) Act is concerned, it has been argued that it does not appear to have been made out.

Notwithstanding the aforesaid arguments, regard being had to the fact, victim/ informant has received



grievous injury of fracture which is attributed to the appellant, I am not inclined to grant anticipatory bail to him.

The appeal stands rejected.

However, if the appellant surrenders before the Court below and seeks bail, all the above noted grounds especially the counter-case and the possibility of the informant having received the injury in a different manner may not be ruled out, and shall be taken into account and order shall be passed without being prejudiced by the fact that the present appeal on behalf of the appellant has not been entertained.

(Ashutosh Kumar, J)

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