

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.22 of 2021

Arising Out of PS. Case No.-327 Year-2020 Thana- TEKARI District- Gaya

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1. Ramniwas Prasad, aged-41 years (Male), S/o Laldhari Saw
 2. Manish Kumar, aged-31 years (Male), S/o Ramashankar Saw
 3. Rama Shankar Prasad @ Ramasankar, aged 54 years (Male), S/o Gulabchandra Saw
 4. Ravi Ranjan Kumar, aged 21 years (Male), S/o Ramashankar Saw
 5. Ramnuj Kumar, aged 18 years (Male), S/o Vasudeo Prasad Gupta

All resident of Village- Ark-Dhibaria, P.S.- Tekari, District- Gaya (Bihar)

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bachan Jee Ojha, Advocate

For the State : Mr. Sadanand Paswan, Special PP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 05-10-2021

Heard Mr. Bachan Jee Ojha, learned counsel for the appellants and Mr. Sadanand Paswan, learned Special Public Prosecutor (hereinafter referred to as the 'Special PP') for the State.

2. The present appeal is directed against the order dated 09.09.2020 passed by the learned Exclusive Special Judge SC/ST, Gaya in ABP No. 144 of 2020 by which the prayer for anticipatory bail of the appellants has been rejected.

3. The appellants apprehend arrest in connection with Tekari PS Case No. 327 of 2020 dated 12.07.2020, instituted



under Sections 323/341/342/448/449/385/387/504/506 of the Indian Penal Code and 3(1)(r)(s)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'SC/ST Act').

4. Learned counsel for the appellants submitted that he may be permitted to withdraw the appeal on behalf of appellants no. 2, 3 and 4 as they have been arrested.

5. In view thereof, as prayed for by learned counsel for the appellants, the appeal on behalf of appellants no. 2, 3 and 4, namely, Manish Kumar, Rama Shankar Prasad @ Ramasankar and Ravi Ranjan Kumar, respectively stands disposed of as withdrawn and limited to appellants no. 1 and 5, namely, Ramniwas Prasad and Ramnuj Kumar.

6. The allegation against the appellants is that they had gone to the house of the informant pressurizing to withdraw the earlier case filed against co-accused Purushottam Kumar with regard to him having raped the daughter of the informant and thereafter of threatening him and also abusing him by caste name.

7. Learned counsel for the appellants submitted that they have been falsely implicated at the behest of the master of the informant, namely, Dhirendra Kumar, who is a notorious



person and in the business of taking land of others through various illegal methods. Learned counsel submitted that the entire family of the appellants have been made accused. It was submitted that the appellants no. 1 and 5 have no other criminal antecedent. Learned counsel submitted that several villagers have given application to the authority with regard to Dhirendra Kumar referring him as a veteran litigant involved in cheating activity. It was contended that as admittedly the allegation is that the appellants had come to the house of the informant without there being any public presence and there being no allegation of assault and only abusive language, no offence is made out under the Act in the present case.

8. Learned Special PP submitted that the appellants no. 1 and 5 were also part of the mob which had come to threaten the informant to withdraw the case. It was submitted that appellants no. 1 and 5 have been made accused by the same informant in Tekari PS Case No. 180 of 2020 with regard to the case in which Purushottam Kumar is said to have raped the daughter of the informant. However, he did not controvert that no overt act has been attributed to appellants no. 1 and 5.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, and



having regard to the fact that the allegation of having abused by caste name has only been made once and that too at the house of the informant and not in public place or public view and no overt act alleged against appellants no. 1 and 5, the Court finds that a case for grant of pre-arrest bail has been made out.

10. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the appellants no. 1 and 5, namely, Ramniwas Prasad and Ramnuj Kumar be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge SC/ST, Gaya in Tekari PS Case No. 327 of 2020, 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 appellants no. 1 and 5, (ii) that the appellants no. 1 and 5 and the bailors shall execute bond and give undertaking with regard to good behaviour of the appellants no. 1 and 5, and (iii) that the appellants no. 1 and 5 shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation shall lead to cancellation of their bail bonds.



11. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the appellants no. 1 and 5, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellants no. 1 and 5.

12. Accordingly, the appeal stands allowed. The order dated 09.09.2020 passed by the learned Exclusive Special Judge SC/ST, Gaya in ABP No. 144 of 2020 is set aside.

(Ahsanuddin Amanullah, J)

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