

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.9 of 2021**

Arising Out of PS. Case No.-23 Year-2020 Thana- SC/ST District- Saran

Raju Prasad Gupta @ Raju Kumar, 38 years, (Male), Son of Late Bharat Prasad Gupta, R/o Village- New Colony, Katahari Bagh, P.S.- Chapra Town, District- Saran Chapra.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar Singh, Advocate
For the State : Ms. Usha Kumari, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 13-07-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the appellant on 07.07.2021, which was allowed.

3. Heard Mr. Mukesh Kumar Singh, learned counsel for the appellant and Ms. Usha Kumari, learned Special Public Prosecutor (hereinafter referred to as the 'Spl. PP') for the State.

4. The present appeal is directed against the order dated 15.09.2020 passed by the learned Additional Session Judge-First/Special Judge SC/ST, Saran in ABP No. 1678 of 2020 by which the prayer for anticipatory bail of the appellant has been rejected.

5. The appellant apprehends arrest in connection with Chapra SC/ST PS Case No. 23 of 2020 dated 13.03.2020,



instituted under Sections 341/323/504/506/34 of the Indian Penal Code and 3(1)(r)(s)/3(2)(ra) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'SC/ST Act').

6. The allegation against the appellant is that he, along with five others, had come at the spot where the informant was watering the under-construction wall of one Santosh Kumar Gupta and had abused him taking caste name as to why he was watering the said wall and further that he was dragged and assaulted and his wife was also abused.

7. Learned counsel for the appellant submitted that he has been unnecessarily made an accused due to rivalry between Santosh Kumar Gupta and co-accused Bhupendra Singh. It was submitted that the informant is a labourer/servant of Santosh Kumar Gupta against whom co-accused Bhupendra Singh has lodged Chapra Town PS Case No. 60 of 2020 under Sections 420/406/386/467/468 of the Indian Penal Code on 05.03.2020, and as a counter blast, the present case has been filed. It was submitted that since the wife of the appellant and Santosh Kumar Gupta have bought part of land from Bhupendra Singh and due to some dispute, Bhupendra Singh has filed the said case against Santosh Kumar Gupta and Santosh Kumar Gupta



has got the present case lodged through his servant, the informant and as the appellant had good term with Bhupendra Singh, he has also been made accused. It was submitted that besides no case being made out under the SC/ST Act as there is no allegation that in public view any abusive language or assault had taken place, later on the informant having realised his mistake has submitted a written application to the Officer-in-Charge of the concerned police station stating that he had compromised the matter, as far as the appellant is concerned, and that he had no grievance against him now. Learned counsel submitted that the appellant has no other criminal antecedent.

8. Learned Sp. PP submitted that though there is allegation of abuse by caste name and also general and omnibus assault, it appears that the informant himself has withdrawn the complaint as far as the appellant is concerned.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the appellant be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Session Judge-First/Special Judge, SC/ST



Saran, Chapra in SC/ST PS Case No. 23 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 appellant, and (ii) that the appellant shall cooperate with the Court and the police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the appellant, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellant.

11. Accordingly, the appeal is allowed. The order dated 15.09.2020 passed by the learned Additional Session Judge-First/Special Judge SC/ST, Saran in ABP No. 1678 of 2020 stands set aside.

(Ahsanuddin Amanullah, J)

Anjani/-

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