

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.29 of 2021

Arising Out of PS. Case No.-332 Year-2019 Thana- SIMRI District- Buxar

RAHUL TIWARI @ RAHUL KUMAR TIWARI S/o- Uday Tiwari, Resident
of Village- Dhanaha, P.O.- Manjhwari, P.S.- Simari, District- Buxar.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Nawnit Kumar Tiwary, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 28-10-2021 Heard learned counsel for the appellant and learned
counsel for the State.

Learned counsel for the appellant is directed to remove
all the defects pointed out by the office within one month.

This is an appeal under section 14 (A) (2) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act, 1989, against the refusal of prayer for bail vide order dated
04.06.2020 passed by 1st Additional Sessions Judge-cum-Special
Judge, Buxar in connection with A.B.P. No. 102 of 2020 arising
out of Simari P.S. Case No. 332 of 2019 registered for offence
punishable under sections 341, 323, 504, 506/34 of the Indian
Penal Code and sections 3 (i) (r) (s) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, whereby and
whereunder the prayer for anticipatory bail made on behalf of the



appellant has been rejected.

The informant Meena Devi made allegation that four accused persons, including the present appellant intercepted her way when she was coming by a tractor with loaded sand, iron rod manufacturing of her house. The son of the informant asked them as to why they were intercepted their ways whereupon they started assaulting with *lathi* and *knife*. They also chased the husband of the informant, who was coming from Dumraon. When the persons of the vicinity assembled, they fled away from there.

Learned counsel for the appellant has submitted that the appellant is a Teacher in Giridih and he was not present at the spot.

From perusal of the FIR it appears that the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not attracted in this case, as there is no allegation in the FIR that the informant or her family members were humiliated, intimidated or subjected to cruelty due to malicious feelings of caste. Nothing in the FIR shows that the family members of the informant have sustained any injury.

Considering the facts and circumstance of the case, the impugned order dated 04.06.2020 is set aside and the appellant, in the event of his arrest or surrender within four weeks from today, is directed to be released on bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the



satisfaction of 1st Additional Sessions Judge-cum-Special Judge, Buxar in connection with Simari P.S. Case No. 332 of 2019, subject to the condition that (i) one of the bailors of the appellant shall be his close relative. (ii) The appellant will not induce any witness or tamper with the evidence. (iii) The appellant shall cooperate in the disposal of trial and make himself available as and when required by the court. In case of failure on two consecutive dates without any valid reason, the court below will be at liberty to pass an appropriate order including cancel the bail bonds of the appellant.

Office shall ensure that all defects are removed by the appellants within the stipulated time mentioned in paragraph 2 hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey , J)

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