

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3687 of 2021

Arising Out of PS. Case No.-221 Year-2020 Thana- HASPURA District- Aurangabad

1. SUDHIR SINGH, Son of Rajnandan Singh Resident of Village - Nanhubigha, P.S.- Haspura, District - Aurangabad.
2. Uday Yadav, Son of Lalu Singh Resident of Village - Nanhubigha, P.S.- Haspura, District - Aurangabad.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bachan Jee Ojha

For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 07-10-2021 Heard Mr. Bachan Jee Oha, learned Advocate

for the appellants and Mr. Sadanand Paswan, learned

Special Public Prosecutor for the State.

The appellants have challenged the order dated

31.07.2021, passed by the learned ADJ 1st -cum-Special

Judge (SC/ST) Act, Aurangabad, in A.B.P. No. 945 of

2021, arising out of Haspura P. S. Case No. 221 of

2020, whereby the prayer made on behalf of the

appellants for grant of anticipatory bail for the offences

punishable under Sections 147, 148, 149, 341, 342,

302 and 504 of the Indian Penal Code and Sections 3(i)



(r)(s) and 3(i)(w) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

The accusation in the F.I.R. is that the son (deceased) of the informant was taken to the house of one Om Prakash Yadav of the village and thereafter the appellants and others assaulted him. When he became seriously injured, he was accused of committing theft in the house of Ramjee Yadav. Later, the police arrived and took the son of the informant to the hospital where he died because of the injuries.

The reason for the occurrence is stated to be the love affairs between the deceased and the daughter of aforesaid Ramjee Yadav.

The learned counsel for the appellants has submitted that an absolutely false case has been lodged against them. In support of the aforesaid argument, it has been demonstrated that Om Prakash Yadav, who is the son of Ramjee Yadav had earlier filed a case against



the deceased for his having committed theft in his house.

There could be a possibility of the deceased having been caught in *flagrant delicto* and assaulted by the members of the village but so far as the implication of the appellants is concerned, that is only on the basis of a stray information provided to the informant. The informant is not an eye-witness to the occurrence.

The other ground urged on behalf of the appellants is that if the averments in the subject F.I.R. is to be believed, then the police had arrived at the house of Om Prakash Yadav/Ramjee Yadav and in that event, Om Prakash Yadav and his father ought to have been arrested, for having seriously injured a person who may have been caught stealing in their house. That not having been done, it appears that accusation against the appellants and others is false and exaggerated.

Additionally, it has been argued that the motive assigned in the F.I.R. is incorrect. The informant has



alleged that because of the amorous relationship between the deceased and the daughter of Ramjee Yadav, such an occurrence took place. However, it has been submitted on behalf of the appellants on oath that aforesaid Ramjee Yadav has no daughter. This fact has been verified during the course of investigation as well.

Though the appellants have been named in the F.I.R. but no specific accusation has been levelled against them. They are the persons of the same village but the accusation is only on the basis of suspicion/stray information to the informant.

Considering this aspect of the matter, one of the other accused persons of this case, namely, Shriman Yadav @ Shriman Singh has been granted anticipatory bail by this Court *vide* order dated 09.07.2021 passed in Cr. Appeal (SJ) No. 1757 of 2021.

The appellants are persons of clean antecedents.

It has also been urged that though the



deceased and the informant belong to the Scheduled Caste community but the nature of accusation and the background facts do not indicate that such an occurrence took place because of the informant and the deceased hailing from the Scheduled Caste community.

It has thus been argued that no offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 can at all be said to have been made out.

For the afore-stated reasons, the order dated 31.07.2021, passed by the learned ADJ 1st -cum-Special Judge (SC/ST) Act, Aurangabad, is set aside.

The appeal stands allowed.

The appellants, above-named, are directed to be released on bail, in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of



the like amount each to the satisfaction of the learned
ADJ 1st -cum-Special Judge (SC/ST) Act, Aurangabad, in
connection with Haspura P. S. Case No. 221 of 2020,
subject to the conditions as laid down under Section 438
(2) Cr.P.C.

(Ashutosh Kumar, J)

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