

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4336 of 2021

Arising Out of PS. Case No.-637 Year-2019 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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1. Raj Kumar Yadav @ Ram Kumar Yadav Son of Baliram Yadav Resident of Village- Pakari Turpatti, P.S.- Kuchaikote, District- Gopalganj.
 2. Mantu Yadav Son of Ram Ashish Yadav Resident of Village- Pakari Turpatti, P.S.- Kuchaikote, Distt- Gopalganj.
 3. Sri Niawas Yadav Son of Late Raj Narayan Yadav Resident of Village- Rampur Bhaisahi, P.S.- Kuchaikote, Distt- Gopalganj.
 4. Jitendra Yadav Son of Baliram Yadav Resident of Village- Pakari Turpatti, P.S.- Kuchaikote, District- Gopalganj.
 5. Baliram Yadav Son of Rajdhari Yadav Resident of Village- Pakari Turpatti, P.S.- Kuchaikote, Distt- Gopalganj.
 6. Ram Ashish Yadav Son of Ram Chandra Yadav Resident of Village- Pakari Turpatti, P.S.- Kuchaikote, District- Gopalganj.

... .. Appellant/s

Versus

1. The State of Bihar
2. Nand Lal Baitha S/o Kishun Baitha Resident of Village- Mathiya Dayaram, P.S.- Kuchaikote, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Akhilesh Kumar
For the Respondent/s : Mr. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 01-11-2021 Heard learned counsel for the appellants and learned
Spl. P.P. for the State.

The present appeal is directed against the order dated
02.08.2021 in ABP No. 1485 of 2021 passed by the learned
Additional District and Sessions Judge-I-cum-Special Judge,
SC/ST Act, Gopalganj by which anticipatory bail application of
the appellant had been rejected in connection with Complaint



Case No. 637 of 2019 in which cognizance has been taken under Section 147, 149, 323, of the Indian Penal Code and read with Sections 3(i)(r) of the SC/ST Act.

At the outset, learned counsel for the appellants submits that against appellant no. 1 there are two cases, appellant nos. 2 and 3 are persons with clean antecedent and as far as appellant nos. 4, 5 and 6 are concerned, they are also implicated in one case. Learned counsel for the appellants submits that from bare perusal of the allegation as alleged in the complaint it would manifest that prima facie no case under SC/ST Act is made out but very fairly concedes that since cognizance has been taken of the offence under the SC/ST Act also as such the present Criminal Appeal is not maintainable in view of Section 18 of the SC/ST Act.

Further, the learned counsel for the appellants has also drawn the attention of the Court to annexure – 4 which is the deposition of the complainant from perusal of which he submits that it is evident that the allegation as alleged in the complaint is at variance with the evidence recorded in the deposition. Further, that the two witnesses in the said complaint case are accused in Kuchaikote P.S. Case No. 97 of 2019 registered under Sections 147, 148, 149, 323, 307, 353, 504 and 506 of the



Indian Penal Code instituted by the police in which the present appellant nos. 1, 3 and 4 are injured as such those witnesses with a view to coerce the appellants into submission are part of the present complaint petition as witnesses. Further, the learned counsel for the appellants submits that the occurrence is of 23.03.2019 but the complaint petition came to be instituted on 25.03.2019 as the aforesaid P.S. case was instituted by the police in which the two witnesses in the present complaint are accused therein.

Learned counsel for the appellants further submits that from bare perusal of the allegation as alleged in the complaint and the deposition no offence under SC/ST Act is made out. As such the cognizance taken under the aforesaid section is mechanical in nature without examining the issues involved.

Learned Spl. P.P. submits that since cognizance has been taken as such this Court in view of Section 18 cannot examine the issues involved in the present case as the court below, even if mechanically, has found a prima facie case against the appellants.

Considering the fact that the learned court below has taken cognizance under SC/ST Act also which prima facie



demonstrates that the learned court below was of the view that offence is made out under SC/ST Act as such the submission of learned counsel for the appellants, for the present cannot be considered in the present proceeding as the appellants are seeking anticipatory bail. However, if the appellants surrender before the court below, the learned court below without being prejudiced by the present order, as this Court has not considered the case on its merit, will pass appropriate order after due application of mind considering the submissions raised by the learned counsel for the appellants in the present anticipatory bail application.

(Satyavrat Verma, J)

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