

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.305 of 2022

Arising Out of PS. Case No.-287 Year-2021 Thana- KALYANPUR District- East Champaran

Jay Prakash @ Jay Prakash Asthana Son Of Nageshwar Prasad Asthana
Resident Of Village - Jagdishpur, Police Station - Kalyanpur, District - East
Champaran.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Tiwari

For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 09-11-2022 Heard learned Senior counsel for the appellant,

learned Special Public Prosecutor for the State and learned

counsel for the Respondent no.2.

The present memo of appeal has been filed on behalf
of the appellant for grant of anticipatory bail against the order
dated 05.01.2022 passed by learned Additional Sessions Judge
III Cum Special Judge SC/ST, East Champaran Motihari in
connection with Kalyanpur P.S. Case No.287 of 2021 under
Sections 147, 148, 149, 341, 323, 325, 353, 354, 504, 506, 509,
307, 427, 379, 188, 440, 332 and 171(F) of the Indian Penal
Code and Section 27 of the Arms Act and Section 3 of the DP
Act and Section 131, 134(b), 135 and 135(a) of the R.P. Act and
Section 3 (1)(r)(s) of SC/ST Act, whereby the prayer for



anticipatory bail of the applicant was rejected.

As per the prosecution case, all the FIR name accused persons including the appellant and more than 200 unknown persons attacked on the polling booth, assaulted the police personnel, snatched pistol, damaged EVM machine and also fired upon the police personnel.

It is submitted on behalf of the appellant is quite innocent and has committed no offence. He submits that he has been falsely implicated in this case due to dirty politics. There is general and omnibus allegation against the appellant. No specific overt act has been alleged against this appellant. No case under SC/ST Act is made out, as there is no allegation of abuse by caste name. Similarly situated co-accused has been granted bail by the coordinate bench of this Court in Criminal Appeal (SJ) No. 2809 of 2022 dated 19.10.2022. Appellant has two criminal antecedent as mentioned in paragraph-3 of the Supplementary Affidavit filed on behalf of the appellant.

Learned Special PP and learned counsel for the respondent no.2 opposes the bail application and submits that process under Section 82 Cr.P.C. has been issued against the appellant thereafter the appellant has filed the present appeal. It is admitted fact that process under Section 83 Cr.P.C. has not



issued against the appellant. Learned counsel for the respondent no.2 further submits that similarly situated co-accused has been granted anticipatory bail but the nature of the present case is not similar to that.

In the facts and circumstances of the case, let the appellant above-named, in the event of his arrest/surrender before the court below within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below in connection with Kalyanpur P.S. Case no. 287 of 2021.

Accordingly, this appeal is allowed and the impugned order dated 05.01.2022 passed by the learned court below is set aside.

(Anjani Kumar Sharan, J)

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