

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.408 of 2022**

Arising Out of PS. Case No.-343 Year-2021 Thana- PARSABAZAR District- Patna

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1. SRI RAJ KISHORE PRASAD @ RAJ KISHORE PRASAD @ RAJ KISHOR PRASAD GUPTA S/o Hira Saow R/o Village- Rahimpur, Bodhachak Road, P.S.- Parsabazar, District- Patna.
 2. Sri Sunil Kumar @ Sunil Kumar S/o Sri Raj Kishore Prasad @ Raj Kishore Prasad @ Raj Kishor Prasad Gupta Resident of Village- Dubey Batraha, P.S.- Phulwaria (Shripur O.P.), District- Gopalganj.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Durgawati Kumari W/o Binod Ram Resident of Village- Rahimpur Bodhachak Road, P.S.- Parsabazar, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Dheeraj Kumar, Adv. Mr. Rajnish Chandra, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, Spl. APP

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 07-06-2022 At the outset, the learned counsel for the appellants submits that the appellant no. 2 has been arrested during the pendency of the present appeal, hence, the present appeal qua the appellant no. 2 has become infructuous.

Accordingly, the present appeal qua the appellant no. 2 stands dismissed as not pressed.

Heard the learned counsel for the appellant and Sri Sadanand Paswan, learned Special P.P. for the State.



This is an appeal under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order dated 26.11.2021 passed by the learned ADJ-III-cum-Special Judge, SC/ST Patna in Anticipatory Bail Petition No. 7943 of 2021 in connection with Parsa Bazar P.S.Case No. 343 of 2021 registered under Sections 147, 149, 341, 323, 504, 337, 306 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, whereby and whereunder the prayer of the appellants for grant of anticipatory bail has been rejected.

The allegation is regarding the accused persons including the appellants herein having arrived at the door of the house of the informant, whereafter they are alleged to have assaulted the informant and his family members as also are alleged to have abused them by taking their caste name. The co-accused person, namely, Shailendra Kumar Tiwari, has been specifically alleged to have thrown stones on the informant and her daughter



resulting in them being injured.

The learned counsel for the appellant No. 1 has submitted that the appellant is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. The learned counsel for the appellant no. 1 has further submitted that a general and omnibus allegation of the accused persons having abused the informant and his family members by taking their caste name has been levelled and as far as the appellant no. 1 is concerned, he has not specifically been alleged to have abused the informant and his family members by taking their caste name, hence, no offence is made out under the provisions of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. It is further submitted that specific allegation of assaulting the informant & her daughter has been levelled on the co-accused person, namely, Shailendra Kumar Tiwary and not against the appellant no. 1 herein, hence he is having no complicity in the alleged occurrence.

Per contra, the learned Special P.P. for the



State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the appellant No. 1, this Court finds that the appellant no. 1 has not specifically been alleged to have abused the informant and her family members by taking their caste name and only a general allegation has been levelled against all the accused persons, hence, prima facie, I do not find that any offence is made out under the provisions of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, as far as the Appellant No. 1 is concerned and moreover, this Court also finds that specific allegation of engaging in overt act has been levelled against the co-accused person, namely, Shailendra Kumar Tiwari, apart from the fact that the appellant no. 1 is a having a clean antecedent, hence I deem it fit and proper to admit the appellant no. 1 to the privilege of anticipatory bail.

Accordingly, the appellant no. 1, above named, is directed to be enlarged on anticipatory



bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned learned ADJ-III Cum Special Judge SC/ST, Patna in connection with Parsa Bazar P.S.Case No. 343 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Consequently the impugned order dated 26.11.2021 passed by the learned ADJ-III cum Special Judge SC/ST, Patna in Anticipatory Bail Petition No. 7943 of 2021 in connection with Parsa Bazar P.S.Case No. 343 of 2021 is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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