

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.400 of 2022

Arising Out of PS. Case No.-490 Year-2021 Thana- BUXAR District- Buxar

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1. Suresh Yadav @ Ram Suresh Singh Son Of Bali Ram Singh Resident Of Village - Lalganj, P.S.- Buxar Muffasil, District - Buxar.
 2. Ajay Yadav @ Ajay Prakash Singh Son Of Ram Suresh Singh @ Suresh Singh Resident Of Village - Lalganj, P.S.- Buxar Muffasil, District - Buxar.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Umesh Ram Son of Bhuwali Ram Resident of Gurudas Mathiya, P.s.- Buxar Muffasil, District - Buxar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Munish Kumar

For the Respondent/s : Ms. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 29-06-2022

Heard learned counsel for the appellants and the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 11.01.2022 passed by the learned 1st Additional District & Sessions Judge-cum-Special Court, SC/ST, Buxar in connection with Buxar (T) P. S. Case No.490 of 2021, instituted for the offences under Sections 341, 323, 379, 504 and 506/ 34 of the Indian Penal Code and Section 3(1)(r)(s)/ 3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.

The learned counsel for the appellants submits that appellants are persons with clean antecedent. It is next



submitted that the allegation as alleged in the F.I.R., prima facie appears to be inherently improbable and patently absurd and thus, submits that it is a classic case of misuse of the SC/ST (P.O.A.) Act. The learned counsel for the appellants thus submits that people like informant are instrumental in maligning such a sacrosanct Act, which was enacted for a very meaningful purpose.

The learned counsel next submits that the informant alleges that on 24.10.2021 while he was returning home after earning his wages, when petitioners including Ajay along with five unknown accused came and started assaulting him and even tried to kill him by strangulation and also abused him by taking caste name. It is next alleged that his brother on hearing hulla came to save him, but the accused also assaulted and abused him by taking caste name. It is next alleged that accused Ajay assaulted his brother on head by lathi on which, his brother fell. It is further alleged that the informant somehow managed to escape and came to his house and informed his family members, who came and took his brother home. It is next alleged that in the meantime, the accused persons came to his house and were abusing the women folk of the house



and were threatening that being downtrodden people, you have become emboldened. It is next alleged that when villagers gathered, the accused fled. The informant further alleges that the accused persons committed theft in the house of one Shankar about an year back in which, Ajay was apprehended, but no case was instituted. Further, after the occurrence, the accused persons next day assaulted the informant while he was going to attend nature's call, but no case was instituted with respect to that occurrence.

It is further alleged that about 16 days back, Shankar was killed, the police came at the place of occurrence, saw the dead body, but neither instituted an F.I.R., nor sent the body for post mortem, for this reason, the accused became emboldened and for this occurrence, assaulted his cousin brother. It is further alleged that the informant went to Buxar hospital for treatment of his cousin where also the accused assaulted him and snatched chain worth Rs.38,000/- from the neck of his sister Sobha Devi. It is next alleged that on account of assault, the informant was also treated at Buxar hospital.

The learned counsel for the appellants submits that it absolutely does not stand to reason that what the



informant intends to allege. It is next submitted that prima facie, no case under the SC/ST (P.O.A.) Act is made out. It is also submitted that even presuming what has been alleged in the F.I.R. to be true without admitting for the purposes of anticipatory bail, then the allegation against the appellants of assault and abuse is general and omnibus in nature. The F.I.R. does not disclose that as to what abuse the petitioner uttered or used while ridiculing the informant. The learned counsel for the appellants next submits that the informant has also tried to rope the appellants in the present case with respect to an occurrence which took place about an year back and when he alleges that a theft was committed in the house of Shankar by the appellants and Ajay Yadav and Ajay Yadav was apprehended, but then submits that no case was instituted. The learned counsel next submits that the informant perhaps was not satisfied or was not clear as to what he intended to allege, hence, alleges that Shankar was killed 16 days back before the institution of the present F.I.R. The police came, but no F.I.R. was instituted, nor the body was sent for post mortem which emboldened the accused on account of which, the accused and Ajay Yadav assaulted his cousin brother. The learned counsel thus



submits that the allegation does not have any nexus with the occurrence of assault i.e. as to why the appellants would assault the cousin brother of the informant for killing of Shankar. The learned counsel next submits that even police investigates the case mindlessly and mechanically. It is submitted that if what has been alleged in the F.I.R. appears to be so sacrosanct to the police, then the Superintendent of Police, Buxar must also investigate that who was the police officer, who was responsible for reaching the place of occurrence where Shankar had died, but still no F.I.R. was instituted, nor the body was sent for post mortem. It is next submitted that it is a classic example of the misuse of such a sacrosanct act by cunning litigant like the informant. The learned counsel for the appellants lastly submits that in sum and substance, no offence under the SC/ST (P.O.A.) Act is made out and as far as allegation of assault is concerned, the same appears to be general and omnibus. The allegation of snatching gold chain from the neck of sister of the informant is ornamental.

The learned Special Public Prosecutor opposes the bail application, but is completely at lost to rebut the submissions made by the learned counsel for the appellants.



Though, the learned Special Public Prosecutor submits that it is a case under the SC/ST (P.O.A.) Act, as such, anticipatory bail should not be granted, but then is not able to make out a case how a prima facie case under the SC/ST (P.O.A.) Act is made out in absence of any allegation in the F.I.R. even to remotely suggest that what words were uttered by the appellants against the informant.

Regard being had to the aforesaid submissions, the order dated 11.01.2022 is set aside.

The appeal stands allowed.

The appellants, above named, in the event of their arrest or surrender before the learned Court below within a period of eight weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs.2,000/- (Rupees Two Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional District & Sessions Judge-cum-Special Court, SC/ST, Buxar in connection with Buxar (T) P. S. Case No.490 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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