

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1775 of 2022

Arising Out of PS. Case No.-37 Year-2020 Thana- BHANGHA District- West Champaran

LALAN YADAV @ LALAN PRASAD YADAV Son of Late Ganga Yadav
Resident of Village - Kamalanagar (Chauhata), P.S. Manpur, Distt.- West
Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Jaynathi Devi W/o Jayram Mahto Resident of Village - Kamalanagar, P.S.-
Manpur, and Distt.- West Champaran. At Present Resident of Village - Ram-
pur Mission, P.S.- Bhangaha, Distt.- West Champaran, Bettiah.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Nilendu Kumar Choudhary, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, Spl. P.P.
For the Informant	:	Mr. Bimlesh Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 08-08-2022

Heard learned counsel for the parties.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 07.05.2022 in A.B.P. No. 1214 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T., Bettiah, West Champaran in connection with Bhangaha P.S. Case No. 37 of 2020 registered under Sections 147, 148, 149, 341, 323, 427, 307, 354, 504 of the Indian Penal Code as well as Sections 3(i)(r)(s), 2(v)(a) of the SC/ST Act.

The informant alleges that on 03.06.2020 at about 06:00 a.m. while the informant was sitting at her door then Yogen-



dra Yadav came on account of previous land dispute and abused the informant and when the same was objected it is alleged that the accused persons including the appellant assaulted her. In the meantime, accused Ravi Subba assaulted on the head of the informant which caused head injury. It is alleged that Lilawati Devi came to rescue then Awadesh Subba assaulted on the head which caused head injury and when the husband of the informant Jayram Mahto came to rescue then Yogendra Yadav gave lathi blow on his head causing injury and when her son came to rescue then Jungbahadur Yadav assaulted and all the accused persons uprooted the informant's house. It is alleged that accused Ravi Subba torn the Saree and Blouse of the informant and Lalan Yadav and accused Yogendra Yadav insulted the informant by using caste name and the reason for the occurrence is land dispute.

Learned counsel for the appellant submits that appellant has been falsely implicated in the present case and from bare perusal of the allegation as alleged in the FIR, it would manifest that no offence under the SC/ST Act is made out from bare reading of the FIR. It is further submitted that the allegation of assault is specific as recorded hereinabove. It is also submitted that the reason for the occurrence is land dispute. Learned counsel further submits that the police after carrying threadbare investigation submitted final form only against the present appellant and rest of the



accused persons were charge-sheeted but the learned trial court differing with the police report took cognizance of the offence. Learned counsel next draws the attention of the Court to the order taking cognizance which is annexed as Annexure-4 to the memo of appeal. It is next submitted that from bare perusal of the cognizance order dated 27.03.2021, it would manifest that the same is mechanical and cryptic. Learned counsel, thus, submits that when one agency after carrying threadbare investigation came to the considered conclusion that appellant is innocent then was it not the duty of the learned Trial Court to give reasons for taking cognizance or cognizance can be taken in such a mechanical manner when the learned Trial Court is well aware of the fact that the prayer for anticipatory bail under the SC/ST Act is not maintainable. Learned counsel, thus, submits that personal liberty of a person as enshrined in Article 21 of the Constitution of India cannot be curtailed in a manner as it has been done in the present case because bare reading of the cognizance order gives an impression that the learned Trial Court took cognizance of the offence without due application of mind.

Learned Special Public Prosecutor and learned counsel for the informant opposed the prayer for anticipatory bail of the appellant but is not able to meet the submission of the learned counsel for the appellant that the police after investigation submit-



ted final form and the learned Trial Court by taking cognizance has not assigned any reason.

Considering the submission made by the learned counsel for the appellant, let the appellant, above named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.5,000/- (rupees five thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Accordingly, the impugned order is set aside and this appeal stands allowed.

(Satyavrat Verma, J)

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