

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1907 of 2022

Arising Out of PS. Case No.-78 Year-2013 Thana- SC/ST District- Jehanabad

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BUDHAN SHARMA @ DHANESHWAR SHARMA Son of Suresh Sharma
Resident of Village - Dumri, P.S.- Ghosi, District - Jehanabad.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shivendra Prasad
For the Respondent/s : Mr. Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 25-08-2022 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

Learned counsel for the appellant undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 10.03.2022 passed by learned 1st Additional Sessions Judge, Jehanabad in connection with Jehanabad SC/ST P.S. Case No. 78 of 2013 registered under Sections 341, 323,



354, 379, 427 and 506/34 of the Indian Penal Code and Section 3(1) (x) (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The specific allegation against the appellant is that he in association with other co-accused slated the informant in her caste name and assaulted her as well as her family members.

It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case. The allegation of assault levelled against the appellant is not specific rather general and omnibus in nature. Slating the informant in the name of caste is said to have been made at the house of the informant and not in public view, hence no offence under SC/ST Act is made out against the appellant. It is further submitted that after investigation the police has submitted the final form and the learned Court below has taken cognizance against the appellant. Appellant has four criminal antecedents as mentioned in para-3 of this memo of appeal.

Learned Special PP for the State vehemently opposing the prayer for bail submitted that in view of the law laid down by the Hon'ble Apex Court in the case of ***Bachu Das Vs. State of Bihar and others*** since reported ***in (2014) 3***



Supreme Court Cases 471 anticipatory bail application is not maintainable before this Court. He further submitted that in a similar nature of case against the order dated 17.05.2022 passed by this Court in Cr. Appeal (SJ) No.3264 of 2021, the appellants moved before the Hon'ble Apex Court by filing Special Leave to Appeal (Crl.) No (s).7055 of 2022, which was dismissed as withdrawn on 10.08.2022. Hence, the appellant does not deserve anticipatory bail by this Court.

Having heard learned counsel for the parties, I am not inclined to enlarge the appellant on bail. The prayer for anticipatory bail is hereby rejected.

However, the appellant is directed to surrender before the learned Court below within six weeks from today and seek regular bail and the learned Court below would pass order on the same day in accordance with law.

Accordingly, this appeal is dismissed.

(Anjani Kumar Sharan, J)

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