

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2648 of 2022

Arising Out of PS. Case No.-38 Year-2019 Thana- SC/ST District- Sitamarhi

Habibul Rahman Ansari @ Md. Habeebur Rahman Son Of Ilahi Baks @
Bangali Mian R/O Village- Nanpur Dakshni Panchayat, Ward No. 3,
Imamwara, P.S.- Nanpur, District- Sitamarhi

... .. Appellant/s

Versus

1. The State Of Bihar
2. Gyani Paswan Son Of Ram Sevak Paswan R/O Village- Nanpur Dakshni
Panchayat, Ward No.3, Imamwara, P.S.- Nanpur, District- Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dinesh Jha, Advocate
For the Respondent/s : Mr. Binay Krishna, S.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 15-12-2022 Vide order dated 29.09.2022, notice was issued to the

Respondent No. 2. It appears from the office report that the

Respondent No. 2 has refused to take the notice which deemed

to valid service in the eye of law.

Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

This is an appeal under Sections 14(A)(2) against
refusal of the prayer for anticipatory bail by order dated
07.06.2022 in A.B.P. No. 956/2022/66/2022 passed by the
learned 1st Additional & Sessions Judge cum Special Judge,
SC/ST (POA) Act, Sitamarhi in connection with Sitamarhi
S.C./S.T. P.S. Case No. 38 of 2019 registered under Sections



341, 323, 504, 379 and 34 of the Indian Penal Code and Section 3(I)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

According to the prosecution case, the informant was going to the market and on his way, all the accused persons including the appellant armed with lathi, danda came there, abused him by calling his caste name and the appellant started to assault with shoes and remaining accused persons assaulted him by fists and slaps.

Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. that there is general and omnibus allegation and in fact, the appellant has purchased the said land from his co-villagers. He further submits that the informant personally wanted to grab his land and constructed hut on the aforesaid land for which the appellant filed the Title Suit No. 198 of 2018 against the informant, so the informant has falsely been implicated in the present case.

After hearing the parties, in my view for the purpose of this anticipatory bail, no offense under the provisions of Scheduled Castes and Scheduled Tribes Act is made out.



Hence, let the appellant, above, named, in the event of his arrest or surrender before the 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. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of 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 and with other following conditions:-

1. Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the



court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

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

(Rajesh Kumar Verma, J)

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