

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3383 of 2019

Arising Out of PS. Case No.-38 Year-2018 Thana- SC/ST District- Banka

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1. Shailesh Pandit @ Shalesh Kumar Son of Chintaman Pandit Resident of Village- Dudhaniya, P.S.- Belhar, District- Banka.
 2. Bhola Pandit S/o Late Dhano Pandit Resident of Village- Dudhaniya, P.S.- Belhar, District- Banka.
 3. Ramesh Pandit Son of Jewa Pandit @ Jay Prakash Pandit Resident of Village- Dudhaniya, P.S.- Belhar, District- Banka.
 4. Vikash Pandit Son of Jewa Pandit @ Jay Prakash Pandit Resident of Village- Dudhaniya, P.S.- Belhar, District- Banka.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Dasrath Rajak S/o Late Godhan Rajak Resident of Village - Bara, P.S. - Belhar, District - Banka.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ajay Mukherjee, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 24-01-2022 Heard the parties through virtual court proceedings.

At the very outset, learned counsel for the appellants submits that the appellant no.3 namely Ramesh Pandit is not a party in this appeal, but inadvertently due to his mistake, in the memo of appeal, name of Ramesh Pandit has been added as an appellant. It is therefore prayed that the name of appellant no.3 may be directed to be deleted from the memo of appeal.

Prayer is allowed.

Let the name of appellant no.3 namely Ramesh Pandit be



deleted from the cause title of the memo of appeal.

Now, this appeal is being heard on the prayer for anticipatory bail as against the appellant nos.1, 2 and 4.

On 15.11.2021, informant was made respondent in this case and thereafter, notice was directed to be issued upon the respondent no.2. As per the office notes, acknowledgment has been received, which shows that notice has been validly served upon the respondent no.2 but today when the case is called out, nobody appears on behalf of the respondent no.2.

This is an appeal under section 14A (2) of SC/ST of the Amendment Act, 2015 and SC/ST (Prevention of Atrocities Act, 1989) (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail vide order dated 10.04.2019, passed by learned Additional Sessions Judge-1, Banka, in connection with Banka SC/ST P.S. Case No.38 of 2018, registered under sections 147, 341, 323, 504 and 506 of the IPC and sections 3(i)(r)(g) of the SC/ST (POA) Act.

The prosecution case in short is that, on the alleged date of occurrence, the FIR named accused persons were digging the field and '*khalihan*' of the informant by J.C.B. and on objection raised by the informant, the accused persons assaulted the informant's side by lathi.



It is submitted by learned counsel for the appellants that the appellants are innocent and have not committed any offence. No such occurrence as alleged has ever taken place. Appellants have been falsely implicated in the case due to land dispute. No one has sustained any injury and the learned lower Court has also not mentioned any injury in the impugned order after perusal of the case diary. The occurrence took place on 20.11.2018 and the FIR has been lodged on 02.12.2018, as such, there is inordinate delay of twelve days in lodging the case without assigning any plausible explanation for the same which creates serious doubt about the prosecution case. The allegation of slating the informant levelled against the appellants is not specific rather general and omnibus in nature, moreover it is in the night at 11.00 P.M. and cannot be said to be in public view. Hence, no offence under SC/ST Act is made out against the appellant. Appellant has no criminal antecedent, as also mentioned in para-3 of the memo of appeal.

Learned Spl. PP for the State opposed the prayer for anticipatory bail by submitting that the appellants have assaulted the informant's side by means of lathi.

Considering the facts and circumstances of the case, the appellant nos.1, 2 and 4, named above, in the event of their



arrest or surrender before the learned Court below within a period of six weeks from today, are directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1, Banka, in connection with Banka SC/ST P.S. Case No.38 of 2018, subject to the condition as laid down under section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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