

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3468 of 2019

Arising Out of PS. Case No.-193 Year-2019 Thana- KHIJARSARAI District- Gaya

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1. RAJESHWARI PRASAD Son of Late Janki Mahto Resident of Village- chirailli, P.S.- Khijarsarai, District- Gaya
 2. Kanhaiya Kumar Son of Rajeshwari Prasad Resident of Village- Chiraili, P.S.- Khijarsarai, District- Gaya.
 3. Purshotam Kumar Son of Rajeshwari Prasad Resident of Village- Chiraili, P.S.- Khijarsarai, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Mahesh Paswan Son of Gopal Paswan Resident of Village- Chirailli, P.S.- Khijarsarai, District- Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Prithivi Raj Singh
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 22-03-2022 Vide order dated 15.11.2021, notice was directed to be issued upon respondent no.2 and as per office notes dated 15.02.2022, notice has been validly served upon respondent no.2 but nobody has entered appearance on behalf of the respondent no.2. However, learned counsel for the appellants and learned Spl.P.P. for the State is present.

This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, (hereinafter, in short referred to as the ‘SC/ST Act’) against the refusal of prayer for anticipatory bail vide order dated



16.07.2019, passed by learned Exclusive Special Judge, S.C. & S.T., Gaya, in connection with Khijarsarai P.S. Case No.193 of 2019, registered u/s 341, 448, 504, 506, 34 of the IPC and sections 3 (1)R of the SC & ST (POA) Act.

The prosecution case, in short is that on 26.5.2019, the informant along with his family was sleeping in his house that in the meantime, the appellants entered into his house and took him to the house of Rajeshwari Prasad. It is alleged that, there five to six persons assaulted him and abused by caste name.

It is submitted by learned counsel for the appellants that the appellants are quite 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 dirty village politics. There is general and omnibus allegation against the appellants and no specific overt act is levelled upon them. There is an inordinate delay of 45 days in lodging the F.I.R. as the incident took place on 26.05.2019 and the F.I.R. got lodged on 10.07.2019 and no plausible explanation has been advanced in this regard, which creates doubt about the prosecution case. There is a land dispute between the parties, for which a Title suit No.-623/2012 is pending in the court of Sub Judge-1st Gaya. For the alleged occurrence, there is a case and counter-case



between the parties. It is further submitted that no offence under the SC/ST Act is made out against the appellants as slating the informant in caste name is said to have been done in the house of Rajeshwari Prasad and not in a public place. Appellants have no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for anticipatory bail.

In the facts and circumstances of the case, since there is no specific allegation against the appellants, the appellants 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 like amount each to the satisfaction of the learned Exclusive Special Judge, S.C. & S.T., Gaya, in connection with Khijarsarai P.S. Case No.193 of 2019, subject to the condition as laid down under section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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