

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3453 of 2022

Arising Out of PS. Case No.-68 Year-2022 Thana- BAKHTIYARPUR District- Patna

1. AKHILESH MOCHI Son of Sita Ram Mochi R/V- Rawaich Dhih (Ward No. 1), P.S- Bakhtiyarpur, Dist- Patna
2. Sujeet Mochi Son of Sita Ram Mochi R/V- Rawaich Dhih (Ward No. 1), P.S- Bakhtiyarpur, Dist- Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pankaj Kumar Das, Advocate
For the Respondent/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 19-12-2022 Heard learned counsel for the appellants and learned
Spl.P.P. for the State.

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 28.01.2022 in SLP Case No. 35 of 2022 passed by the learned Special Judge, SC/ST-cum-Additional Sessions Judge-III, Patna in connection with SC/ST Bakhtiyarpur P.S. Case No. 68 of 2022 registered under Sections 341, 323, 447, 504, 506, 427, 435, 436 and 34 of the Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(iv) of the Schedule Caste and



Schedule Tribes (Prevention of Atrocities Act).

Learned counsel for the appellants submits that the appellants are persons with clean antecedent.

The Court is shocked after reading the impugned order holding that present anticipatory bail application was not maintainable in view of the SC/ST Act, the Court fails to appreciate that as to why the learned District Court passes order in such a mechanical manner without even appreciating the facts of the case, it appears that the learned Special Judge SC/ST, Patna seems to be in a hurry in disposing of cases. Either the cases, which enmates from the said Court, are withdrawn by the appellants and then a submission is made before this Court that the learned Judge made the counsel to withdraw the anticipatory bail application on the ground of maintainability, as was submitted in the case of Navin Kumar (ABP No. 2612 of 2022). The observation recorded hereinabove is made for the reason that the informant alleges that on account of previous dispute the accused persons, including the appellants, were threatening to kill and burn the property of the informant, further on 02.01.2022, the accused persons pressurized to withdraw the cases filed by his wife, next when she refused, the accused persons came on 04.01.2022 with petrol and set ablaze his house



in which his cow died.

Learned counsel for the appellants submits that the appellants are also member of Schedule Caste Community and are related to the informant, it is also submitted that from bare perusal of the name of the appellants, it would manifest that they belong to the Schedule Caste Community, but the learned Special Judge SC/ST, Patna without appreciating the said facts of the case held that the anticipatory bail is not maintainable in view of the SC/ST Act.

Learned counsel for the appellants submits that it absolutely does not stand to reason that how SC/ST Act would be applicable against an SC/ST, it is next submitted that this perhaps explains that either the learned Court is in a hurry or in a mechanical manner passes orders without hearing the learned counsel for the accused persons who appear. It is next submitted that the learned trial court ought not to have held that anticipatory bail is not maintainable merely by seeing the name of the appellants, it is next submitted that the allegations against the appellants are general and omnibus in nature and there is no specific allegation against them of setting ablaze the house of the informant in which his cow died, it is also submitted that the date of occurrence is 04.01.2022 and the FIR came to be



instituted on 12.02.2022 i.e., after a delay of more than one month and that too based on written application of the informant which further creates doubt with regard to the veracity of the allegations as alleged but these facts were not appreciated by the learned trial court.

After hearing the learned counsel for the appellants, the Court refrains from passing any order against learned trial court, but then records its displeasure in the manner in which the case was dealt.

Learned Spl.P.P. for the State opposes the prayer for anticipatory bail of the appellants.

Considering the submissions made by the learned counsel for the appellants, the order dated 28.01.2022 in SLP Case No. 35 of 2022 passed by the learned Special Judge, SC/ST-cum-Additional Sessions Judge-III, Patna in connection with SC/ST Bakhtiyarpur P.S. Case No. 68 of 2022 is hereby set aside and the appellants above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount to the satisfaction of the learned trial court where the case is pending/successor court in



connection with SC/ST Bakhtiyarpur P.S. Case No. 68 of 2022
subject to the conditions as laid down under Section 438 (2) of
the Cr.P.C.

Let the order be communicated to the learned District
Judge, Patna for its onwards communication to the Special
Judge SC/ST, Patna for his perusal.

(Satyavrat Verma, J)

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