

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3485 of 2022

Arising Out of PS. Case No.-299 Year-2021 Thana- KHIJARSARAI District- Gaya

Abdesh Paswan @ Awadhesh Paswan @ Avdhesh Paswan Son of Nemadhari
Paswan Resident of village - Dharam Bigha, P.S. Khijarsarai, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sudeshi Manjhi Son of Late Lalchand Manjhi Resident of village - Dharam Bigha, P.S. Khijarsarai and District - Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Manish Kumar No2
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-11-2022 Heard learned counsel for the appellant as well as
learned Special Public Prosecutor for the State.

Learned counsel for the appellant submits that in fact
the appellant also belongs to the SC/ST community and
therefore no notice is required to the respondent/informant.

This is an appeal under Sections 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, against refusal of the prayer for anticipatory bail
by order dated 18.02.2022 in A.B.P. No. 07 of 2022 passed by
the learned Exclusive Special Judge, SC/ST, Gaya in connection
with Khijarsarai P.S. Case No. 299 of 2021 registered under
Sections 341, 323, 307, 379, 504 and 34 of the Indian Penal



Code and Sections 3(1) (r)(s) of SC/ST Act, 1989.

As per prosecution case, in brief, is that informant namely Sudeshi Manjhi was with his family and in the meanwhile accused namely Laxman Yadav, Mantu Yadav and Avdhesh Paswan came to the informant's house and started abusing in abusive and caste indicative words and further alleged of stealing motor on which when the informant opposed them from abusing he was assaulted with iron rod.

Learned counsel for the appellant submits that the appellant has clean antecedents and he has been falsely implicated in the present case. He further submits that the present case is counter blast of Khijersarai P.S. Case No. 300 of 2021. He further submits that in fact the appellant and informant belong to the same community and hence there is no case made out under the SC/ST provisions and it appears from the F.I.R. that there is general and omnibus allegation against the appellant.

Learned Special Public Prosecutor for the State has vehemently opposed the prayer for anticipatory bail of the appellant.

After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of



Scheduled Casts and Scheduled Tribes Act is made out, because the appellant and the informant belong to the same community.

Hence, let the appellant, above named, in the event of his arrest or surrender before the court below within a period of thirty days 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 Khijersarai P.S. Case No. 299 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure along 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 witness, 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 dated 18.02.2022 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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