

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.4880 of 2021

Arising Out of PS. Case No.-404 Year-2021 Thana- KRITYANAND NAGAR District-
Purnia

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1. BIJENDRA YADAV Son of Late Balu Yadav Resident of Ward No. 12, Krityanand Nagar Railway Gumti, P.O. and P.S.- Krityanand Nagar, District- Purnea.
 2. Bhumi Yadav Son of Late Balu Yadav Resident of Ward No. 12, Krityanand Nagar Railway Gumti, P.O. and P.S.- Krityanand Nagar, District- Purnea.
 3. Mukesh Sah @ Mukesh Kumar Son of Sri Bansi Sah Resident of Ward No. 12, Krityanand Nagar Railway Gumti, P.O. and P.S.- Krityanand Nagar, District- Purnea.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amrit Abhijat, Advocate
For the Respondent/s : Ms.Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 06-06-2022 At the outset, the learned counsel for the appellants submits that the appellant no. 3 has been arrested during the pendency of the present appeal, hence the present appeal has been rendered infructuous qua the appellant no. 3.

Accordingly, the present appeal qua the appellant no. 3 stands dismissed as not pressed.

Heard the learned counsel appearing for the appellants and Ms. Usha Kumari-1, learned Special P.P. for the State.

This is an appeal under Section 14(a)2 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order dated 03.12.2001 passed by the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST Act, Purnea in Anticipatory Bail Petition No. 113 of 2021/C.I.S. No. 113 of 2021 arising out of Krityanand Nagar (K. Nagar) P.S. Case No. 404/2021 registered under Sections 341, 379, 323,



324, 504, 506/34 of the Indian Penal Code and Sections 3(1)(v) (s),3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, whereby and whereunder the prayer of the appellants for grant of anticipatory bail has been rejected.

The case of the prosecution in brief is that on 09.09.2021, in the night at about 8:30 P.M. the son of the informant as also the younger brother of the informant were returning back to their home and when they had reached near a temple, the accused persons including the appellants herein had surrounded them and abused them by taking their caste name as also had assaulted them with sticks and *dabia*. It is submitted that as far as the appellant no. 1 is concerned, he is having a clean antecedent, however, the appellant no. 2 is an accused in only one other case in which he is on bail. It is also submitted that a general and omnibus allegation of abusing the informant and his family members by taking their caste name has been levelled and as far as the appellant nos. 1 & 2 are concerned, there is no specific allegation of them having abused the members of the prosecution party by taking their caste name. It is next submitted that the present case arises out of case and counter case, the case filed by the appellant no. 1 i.e. the one bearing



Purnea P.S. Case No. 401 of 2021 being first in time. It is also submitted that in the said incident the wife of the appellant no. 1 was badly assaulted resulting in her leg being fractured. It is also submitted that other members of the appellant's side were also injured in the said incident. Lastly, it is submitted that the impugned order dated 03.12.2021 would bear it out that the injuries sustained by the son and the brother of the informant, attributable to the appellants herein have been found to be simple in nature, hence it is submitted that a lenient view be taken and the appellant nos. 1 & 2 be admitted to the privilege of anticipatory bail.

Per contra, the learned Special P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, and taking into account the materials on record, prima facie this Court finds that a general and omnibus allegation regarding the accused persons having abused the members of the prosecution party by taking their caste name, has been levelled and in fact the appellant nos. 1 and 2 have not been specifically alleged to have abused the members of the prosecution party by taking their caste name and moreover, the injuries sustained by the son and younger brother of the informant have been found to be



simple in nature apart from the fact that the present case arises out of case and counter case, the case filed by the appellant no. 1 being first in time, hence I deem it fit and proper to direct for release of the appellants no. 1 & 2 on anticipatory bail.

Accordingly, the appellants no. 1 & 2, above named, are directed to be released on anticipatory bail in the event of their arrest/surrender before the court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge, SC/ST Act, Purnea in connection with Krityanand Nagar (K. Nagar) P.S. Case No. 404 of 2021 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

Consequently, for the reasons mentioned hereinabove, the impugned order dated 03.12.2021 passed in A.B.P. No. 113 of 2021/C.I.S. No. 113 of 2021 by the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST Act, Purnea is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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