

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5828 of 2019

Arising Out of PS. Case No.-4 Year-2019 Thana- SC/ST District- Khagaria

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BIPIN KUMAR Son of Narayan Poddar Resident of Village - Sanhouli, P.S.-
Chitragupta Nagar, Distt.- Khagaria.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Viveka Nand Singh, Adv.

For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 19-01-2022 Heard learned counsel for the appellant and learned

Special Public Prosecutor for the State through virtual court

proceedings.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
'SC/ST Act') against the refusal of prayer of anticipatory bail
vide order dated 05.12.2019 passed by learned Additional
Sessions Judge 1st Khagaria in connection with Special SC/ST
No. 53 of 2019 arising out of Khagaria SC/ST P.S. Case No. 04
of 2019 registered under Sections 147, 341, 323, 354B, 379,
427, 506 of the Indian Penal Code, Section 27 of the Arms Act
and Sections 3 (i) (r) (s) of the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act.

The persecution case, in nutshell, is that the appellant



is the In-charge Principal of the Jawahar Navodaya Vidyalaya, Sonbarsa Ghat, Khagaria, the school where the son of the informant was studying in Class-IX. It is alleged that at the instance of the appellant the son of the informant was badly assaulted by his colleague Deepak Kumar Gupta. When the informant along with her husband and other people went to school to know the reason about the occurrence, they were also assaulted by the co-accused named in the F.I.R. by means of fist, slaps, brick, bats and rod etc. Co-accused Deepak Kumar snatched golden chain worth Rs.8000/- from the neck of the informant and co-accused Anshu Kumar snatched Rs.11000/- from the informant. Co-accused Dipam Kumar snatched mobile phone of husband of the informant. All accused persons also damaged the Scorpio vehicle of the informant. Appellant is said to have abused the informant by her caste name and gave order to the students to outrage her modesty.

It is submitted by learned counsel for the appellant that appellant is quite innocent and has been falsely implicated in this case. The allegation levelled against the appellant is not specific rather general and omnibus in nature. He further submitted that the alleged occurrence took place on 24.01.2019 but the informant has filed the present case after delay of 8 days



i.e. on 01.02.2019, without assigning any plausible and cogent reason for the said delay. He also submitted that there is case and counter case between the parties. Learned counsel for the appellant further submits that after investigation, police filed final form against the appellant and other co-accused but the court below differed with the final form and taken cognizance against the appellant, which is annexed as Annexure- 4 to this memo of appeal. Appellant bears no criminal antecedent as stated in para-3 of this appeal.

Learned Special Public Prosecutor for the State vehemently opposing the prayer for bail submitted that the learned court below after perusing the case diary and materials on record found that prima facie offence is made out under Section 3(1) of the SC/ST Act, hence prayer for anticipatory bail is not maintainable. In this regard, he placed reliance on the judgment of Hon'ble Apex Court in the case of **Bachu Das Vs. State of Bihar & Ors.** since reported in **(2014) 3 SCC 471**. He further submitted that Section 18 of the SC/ST Act creates a bar for invoking Section 438 of the Code. However, a duty is cast on the court to verify the averments in the complaint and to find out whether an offence under Section 3(1) of the SC/ST Act has been prima facie made out. In other words, if there is a specific



avermment in the complaint, namely, insult or intimidation with intent to humiliate by calling with caste name, the accused persons are not entitled to anticipatory bail.

Considering the facts and circumstances of the case, seriousness of the allegation levelled against the appellant as well as the fact that cognizance has already been taken against the appellant, I am not inclined to enlarge the appellant on anticipatory bail.

Accordingly, the prayer for anticipatory bail of the appellant is hereby rejected in connection with Special SC/ST No. 53 of 2019 arising out of Khagaria SC/ST P.S. Case No. 04 of 2019 and this appeal is dismissed.

(Anjani Kumar Sharan, J)

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