

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1190 of 2023

Arising Out of PS. Case No.-75 Year-2022 Thana- MAIRWAN District- Siwan

MADAN SINGH Son of Late Nagina Singh R/V- Gular Baga, Post- English
P.s- Mairwa, Dist- Siwan Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Binda Sah Son of Late Chhabila Sah R/V- Gular Baggar, PS- Mairwa Dist-
Siwan

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ranjeet Choubey
For the Respondent/s	:	Mr. Sadanand Paswan Mr. Ajay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

- 3 05-07-2023 Heard learned counsel for the appellant, learned counsel
for the informant/complainant and learned Special Public
Prosecutor 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 in short referred to as the 'SC/ST Act') against
the refusal of prayer of anticipatory bail vide order dated
18.01.2023 passed by learned 1st Additional Sessions Judge cum
Special Judge, Siwan in connection with Mairwa P.S. Case No.
75 of 2022, registered under Sections 341, 323, 337, 427, 436,
504, 506, 34 of the Indian Penal Code and Section 3(i) (r s), 3(2)
(iii), (iv) of the Scheduled Castes and Scheduled Tribes



(Prevention of Atrocities) Act.

The prosecution case, in short, is that the appellant and other co-accused persons assaulted the informant and also abused him by taking his caste name. It is alleged that the appellant set fire in the informant's hut as a result of which food grains and his buffalo got burnt.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case due to enmity and grudge. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. He further submits that similarly situated co-accused persons have been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 30.06.2022 and 11.07.2022 passed in Cr. APP (SJ) No.2206 of 2022 and Cr. APP (SJ) No.2334 of 2022 respectively. Appellant has no criminal antecedent as mentioned in para-3 of this memo of appeal.

Learned Spl. PP for the State as well as learned counsel for the informant/complainant opposed the prayer for bail by submitting that in the FIR, there is a direct allegation of abuse



against the appellant. He relied upon the judgment of Apex Court in the case of *Prathvi Raj Chauhan vs. Union of India* passed in **2020 (4) SCC 727** in which it has been observed that anticipatory bail can only be granted where no *prima facie* case is found under the SC/ST Act.

In the facts and circumstances of the case and in view of the Apex Court judgment, I am not inclined to enlarge the appellant on bail. The prayer for grant of anticipatory bail on his behalf is hereby rejected.

Accordingly, this appeal is dismissed.

(Anjani Kumar Sharan, J)

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