

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3505 of 2023

Arising Out of PS. Case No.-48 Year-2022 Thana- GHOSWARI District- Patna

HIMANSHU YADAV @ HIMANSHU KUMAR S/O PRABHAT YADAV
R/O VILLAG- PAIJNA, P.S- GHOSHWARI, DISTT.- PATNA.

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. MAULI PASWAN @ CHANDRAMAULI PASWAN S/O LATE BANGALI PASWAN R/O VILLAG- PAIJNA, P.S- GHOSHWARI, DISTT.- PATNA.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Arjun Prasad, Adv.
For the Respondent/s : Mrs.Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 06-12-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. In compliance of the order of this Court, learned Spl.P.P.
for the State informed the respondent no.2 about his appearance
in the appeal but nobody appears on his behalf.

3. This is an appeal under section 14A (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 for anticipatory bail vide order dated
03.07.2023, passed by learned Exclusive Special Court, SC/ST
Act, Patna, in connection with Ghoswari P.S. Case No.48 of
2022, registered u/s 147, 341, 323, 504 of the IPC and sections



3(i)(r)(s)/3(1)(va) of the SC/ST Act.

4. As per the prosecution case, it is alleged that on the eve of Holi, the appellant and other accused persons came and started throwing colors upon the informant's side and on objection, informant was abused by the appellant and other accused by caste name and thereafter, the accused persons assaulted the informant and his family members. When the local people came, the accused fled away after firing in the air.

5. It is submitted by learned counsel for the appellant that the appellant is innocent and has not committed any offence. No such occurrence in the manner as alleged has ever taken place. Appellant has been falsely implicated in the case with frivolous allegation. It is submitted that no offence under the SC/ST Act is made out against the appellant as the occurrence is not said to have taken place in the public view. No person was injured in the alleged occurrence. It is further submitted that the occurrence took place on 19.03.2022 and the F.I.R. was lodged on 23.03.2022 i.e. after delay of four days and there is no explanation regarding the delay, which itself creates doubt about the prosecution case. Appellant has no criminal antecedent.

6. Learned Spl. PP for the State opposed the prayer for anticipatory bail.



7. Considering the facts and circumstances of the case, since there is no specific overt act against the appellant, the appellant named above, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Court, SC/ST Act, Patna, in connection with Ghoswari P.S. Case No.48 of 2022, subject to the condition as laid down under section 438 (2) of the Cr.P.C.

8. Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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