

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3982 of 2023

Arising Out of PS. Case No.-648 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

Navin Kumar Srivastava, Male, aged about 36 years, Son of Late Kali Lal Srivastava, Resident Of Village- Ameth, P.S.- Mohania, Distt- Kaimur (Bhabua)

... .. Appellant

Versus

1. The State of Bihar.
2. Mintu Kumar, Son of Shyam Lal Rajak, Resident of Village- Ameth, P.O.- Bhitthi, P.S.- Mohania, Distt- Kaimur (Bhabua)

... .. Respondents

Appearance :

For the Appellant	:	Mr. Rajesh Kumar Pathak, Advocate
For the Respondent No. 2:		M/S. Radha Mohan Pandey and Chandra Shekhar Verma, Advocates
For the State	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 01-12-2023 This appeal is listed under the heading ‘To Be Mentioned’.

2. Heard learned counsel for the appellant, learned counsel for the respondent no. 2 and learned Spl. P.P. for the State.

3. 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 of the appellant vide order dated 14.06.2023, passed by the learned Additional Sessions Judge-1st-cum-Special Judge, SC/ST



(POA) Act, Kaimur in A.B.P. No. 547 of 2023 in connection with Mohania P.S. Case No. 648 of 2022 registered for the offences punishable under Sections 420, 406, 504/34 of the Indian Penal Code and Sections 3(i)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. The prosecution case, in brief, is that it was agreed that 36 decimals of land would be sold to the informant on consideration amount of Rs. 4,60,000/- per bigha. Thereafter, the informant paid total Rs. 6,18,000/- to the petitioner but on 01.12.2022, the petitioner and the co-accused persons are alleged to have abused the informant and refused to execute the sale deed with regard to the land in favour of the informant.

5. It is submitted by learned counsel for the appellant that the appellant is quite innocent and has falsely been implicated in the present case due to ulterior motive. It is further submitted that the appellant had filed a Complaint Case No. 3462 of 2022 on 25.11.2022 before the learned C.J.M., Mohania against the informant and others under Sections 341, 323, 504, 379, 354, 307, 452, 34 of the I.P.C. and Section 27 of the Arms Act and in retaliation to that the informant has filed the present case as a counter blast against the appellant and others on 01.12.2022. It is further submitted that it is civil dispute



between the parties. There is no allegation of hurling of caste related abuse at the informant by the appellant. The alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is made out against the appellant. Other co-accused persons have been granted anticipatory bail by another Co-ordinate Bench of this Court vide Cr. Appeal (SJ) No. 704 of 2023 under order dated 16.08.2023. The appellant has clean antecedent as stated in paragraph no. 3 of the memo of appeal.

6. Learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for anticipatory bail of the appellant.

7. In view of the aforesaid facts and circumstances of the case, the impugned order dated 14.06.2023, passed by learned Additional Sessions Judge-1st-cum-Special Judge, SC/ST (POA) Act, Kaimur in A.B.P. No. 547 of 2023 in connection with Mohania P.S. Case No. 648 of 2022, is set aside against the appellant. The criminal appeal is allowed.

8. Accordingly, the above named appellant, in the event of his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/-



(Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1st-cum-Special Judge, SC/ST (POA) Act, Kaimur in connection with Mohania P.S. Case No. 648 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C with further condition:

- (i) The appellant is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellant are liable to be cancelled.

(Chandra Prakash Singh, J)

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