

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4795 of 2021

Arising Out of PS. Case No.-52 Year-2021 Thana- SC/ST District- Gopalganj

-
1. SRI KAMLA KANT PRASAD @ KAMLA KANT PRASAD Son of Vishwanath Prasad The then S. D. P. O., Head Quarter - 3 at Present S. D. P. O. Constable Sub Selection Board (A) Block, 6th Floor, Sardar Patel Bhawan, District - Patna.
 2. Yogendra Prasad Son of Vishwanath Prasad Resident of Village - Chandrapura, P.S.- Jagdishpur, District - Buxar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Surendra Gore Resident of Village -

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ramakant Sharma, Sr. Adv
		Mrs. Priyanka Singh
For the Respondent/s	:	Mrs. Usha Kumari 1
		Mr. Javed Aslam

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 11-01-2023 Heard learned senior counsel for the appellants, learned counsel for the respondent no.2 and learned Special Public Prosecutor for the State.

Learned counsel for the appellants undertakes to remove the defects within four weeks.

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 06.10.2021, passed by learned Additional District & Sessions Judge I cum



Special Judge SC/ST, Gopalganj, in connection with Gopalganj SC/ST P.S. Case No.52 of 2021, registered under Sections 341, 447, 504, 506/34 of the Indian Penal Code and Section 3(i) (r)(s), 3 (2) (vi)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution story in brief is that, the appellant namely, Sri Kamla Kant Prasad was posted as S.D.P.O. at Hathua Subdivision and was inimical to one Ashutosh Dubey, the appellant took the informant to his office and harassed him and took his signature on a blank paper and got a case registered against Ashutosh Dubey under SC/ST Act. It is alleged that after his transfer, appellant no.2 namely, Yogendra Shah alongwith 4-5 persons threatened the informant that if he will tell anything against the appellant no.1, then he will be killed and his son will be kidnapped.

It is submitted by learned senior counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to dirty village politics. There is no eye witness to the occurrence in the present case. He submits that the occurrence took place on 01.07.2015 and the FIR was lodged on 25.09.2021 i.e. after a delay of more than five years, without giving any plausible explanation regarding the said delay which creates a serious doubt over the genuineness of



the prosecution story. It is further submitted by the learned senior counsel that for the same offence one complain FIR and one complaint petition has been filed. Appellants have criminal antecedent, as also mentioned in para-3 of memo of appeal.

Learned Spl. PP for the State as well as learned counsel for the respondent no.2 opposed the prayer for bail.

In the facts and circumstances of the case, as there is a delay in filing of FIR, let the above named appellants, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) **each** with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge I cum Special Judge SC/ST, Gopalganj, in connection with Gopalganj SC/ST P.S. Case No.52 of 2021, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

shikha/-

U		T	
---	--	---	--

