

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4849 of 2021

Arising Out of PS. Case No.-259 Year-2020 Thana- BARH District- Patna

=====

M/S AZAD @ MD. AZAD SHAH S/o Md. Rushtam Shah R/o village-
Akbarpur, P.S.- Barh, District- Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Jitendra Kumar S/o Sri Rajendra Das R/o village- Akbarpur, P.S.- Barh,
District- Patna

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Kumar Rajeev, Advocate
For the Respondent/s : Mrs. Usha Kumari-1, Special P.P.

=====

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

- 4 20-12-2023 Heard learned counsel for the appellant and learned Special Public Prosecutor for the State but in spite of valid service of notice none is present on behalf of respondent no.2.
2. Learned counsel for the appellant is directed to make necessary corrections in the supplementary affidavit during course of the day.
3. Learned counsel for the appellant has filed a supplementary affidavit in which it is stated that wife of respondent no.2, who has received the notice on behalf of respondent no.2, resides in the same house with respondent no.2. Hence, the service of notice upon respondent no.2 may be deemed to be valid service.
4. 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 14.10.2020 passed by learned Additional Sessions Judge-X-cum Special Judge (SC/ST Act), Patna in connection with Badh P.S. Case No. 259 of 2020 registered under Sections 147, 148, 323, 324, 307, 448, 354, 379 & 504 of the Indian Penal Code and Section 3(1) (r) (s) and 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

5. All the F.I.R. named accused persons including this appellant armed with sword, knife and lathi are said to have forcibly entered into the house of the informant and when the mother and wife of the informant made protest, they assaulted them causing injuries to them.

6. It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in the case due to ulterior motive. Slating the informant in the name of caste is said to have been made at the house of the informant and not in public view, hence no offence under SC/ST Act is made out against the appellant. The allegation levelled against the appellant is not specific rather general and omnibus in nature. Similarly situated co-accused



persons have been enlarged on anticipatory bail by co-ordinate Bench and this Court also. Appellant has no criminal antecedent as mentioned in para-3 of this memo of appeal.

7. Learned Spl. PP for the State opposed the prayer for bail.

8. In the facts and circumstances of the case, 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 released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Addl. Sessions Judge-X-cum Special Judge (SC/ST Act), Patna in connection with Badh P.S. Case No.259 of 2020, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

Trivedi/-

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

