

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4863 of 2021

Arising Out of PS. Case No.-32 Year-2021 Thana- SC/ST District- Gopalganj

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.

... .. Appellant/s

Versus

1. The State of Bihar
2. Surendra Gond Late Khublal Gond R/O Village-Semra, P.S.-bhore, District-Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ramakant Sharma, Sr. Adv Mrs. Priyanka Singh
For the Respondent/s	:	Mr. Binay Krishna Mr. Javed Aslam

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 11-01-2023 Heard learned senior counsel for the appellant, learned counsel for the respondent no.2 and learned Special Public Prosecutor for the State.

Learned counsel for the appellant 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 18.09.2021, passed by learned Additional District & Sessions Judge I, Gopalganj, in connection with Gopalganj SC/ST P.S. Case No.32 of 2021, registered under Sections 341, 323, 166 of



the Indian Penal Code and Section 3(i) (r), 3 (2) (vii) 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, co-accused namely, Yogendra Shah alongwith 4-5 persons threatened the informant that if he will tell anything against the appellant, then he will be killed and his son will be kidnapped.

It is submitted by learned senior counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has 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. Appellant has 4 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 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 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 Additional District & Sessions Judge I, Gopalganj, in connection with Gopalganj SC/ST P.S. Case No.32 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)

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