

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4111 of 2022

Arising Out of PS. Case No.-66 Year-2015 Thana- FULKAHA District- Araria

Pappu Kumar Yadav @ Pappu Yadav S/O Shiv Narayan Yadav R/O Village-
Laxmipur, Amrori, Topan Nawabganj, P.S- Fulkaha, District- Araria

... .. Appellant/s

Versus

1. The State of Bihar
2. Birendra Rajak S/O Krishna Mohan Rajak R/O Village- Fulkaha, Ward No-04, P.S- Fulkaha, District- Araria

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Madhav Jha, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, APP
For the Informant	:	None

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 24-05-2023 Heard learned counsel for the appellant and learned Spl. P.P. for the State and it appears that despite valid service of notice on the informant, no one has appeared to contest the case.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for **anticipatory bail** vide order dated 06.09.2022 in A.B.P. No. 2088 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in connection with Fulkaha P.S. Case No. 66 of 2015 registered for the offences punishable under Sections 341, 323, 307, 379, 504 and 34 of the Indian Penal Code as well as Sections 3(1)(x) of the SC/ST Act.

Learned counsel for the appellant submits that the



appellant is a person with clean antecedent and the informant alleges that on 10.11.2015, the named accused persons along with five unknown came and abused the informant by taking caste name, thereafter Munna assaulted by slap while Chandeshwari gave *lathi* to Munna and gave orders to kill him on which Munna assaulted by *lathi* causing injury on hand and head of the informant and Pappu assaulted by leg and snatched his silver chain.

Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case, it is next submitted that the police initially did not find any material against the appellant and as such the appellant was granted police bail. It is further submitted that after investigation charge-sheet was submitted and the learned trial court has taken cognizance as such the petitioner apprehends his arrest. It is next submitted that this Court in the case of **Gauri Shankar Rai Vs. The State of Bihar** reported in **2015 (3) PLJR 618**, after examining various provisions of law and earlier judgments, had come to a considered conclusion that an anticipatory bail is maintainable in the event, if privilege of Section 41(1) of the Cr.P.C. is granted to the accused persons. Learned counsel next submits that the appellant never misused the privilege of police bail which was granted to him and in the nature of allegation as alleged in the FIR *prima-facie* no



offence is made out under the SC/ST Act.

Learned Spl. P.P. for the State opposes the prayer for anticipatory bail of the appellant but is not in a position to rebut the submission of the learned counsel for the appellant that he was on police bail earlier.

In view of the submissions made by the learned counsel for the appellant, the order dated 06.09.2022 in A.B.P. No. 2088 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in connection with Fulkaha P.S. Case No. 66 of 2015 is hereby set aside and the appellant above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Fulkaha P.S. Case No. 66 of 2015 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

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