

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 4269 of 2022**

Arising Out of PS. Case No.-234 Year-2020 Thana- GUTHANI District- Siwan

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1. Pradeep Yadav Son Of Garib Yadav Resident Of Village - Tarawn Khurd, Police Station - Guthani, District - Siwan.
 2. Anup @ Jai Yadav @ Anup Kumar Yadav Son Of Late Ramayan Yadav Resident Of Village - Tarawn Khurd, Police Station - Guthani, District - Siwan.
 3. Kapildev Yadav Son Of Madhu Yadav Resident Of Village - Tarawn Khurd, Police Station - Guthani, District - Siwan.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Rama Shankar Baitha Son of Late Saral Baitha R/o Village - Tarawn Khurd, P.S. - Guthani, District - Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bijay Prakash Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

7 08-12-2023 Heard learned counsel for the appellants and learned counsel for the informant as well as learned Special Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer for anticipatory bail vide order dated 18.10.2022 passed by the learned Additional Sessions Judge -1st-cum-Special Judge, Siwan, in A.B.P. No. 2106 of 2022 arising out of Guthani P.S. Case No. 234 of 2020



dated 10.12.2020 registered for the offence/s punishable u/ss 363 and 302 read with section 34 of the Indian Penal Code and sections 25(1-B)a, 26 of the Arms Act and sections 3(2) (v) / 3(2) of the SC/ST Act.

3. As per the prosecution case, the appellants and the co-accused persons are alleged to have abused the informant's son by calling his caste name as the son of the informant was in love with a girl of the family of the co-accused persons. It is further alleged that the accused persons took the informant's son to their house and assaulted him brutally and thereafter he was taken to hospital where the doctor declared him dead.

4. Learned counsel for the appellants has submitted that the appellant have falsely been implicated in this case due to ulterior motive. Learned counsel has submitted that there is general and omnibus allegation against the appellants. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time alleged occurrence. The said word is not laced with the casteist remark. As per FIR, no member of public was present at the relevant point of time of the incident. There is no allegation of hurling of caste related abuse at the informant by the appellants. Learned counsel has further submitted that no specific caste name has been called by



the appellants hence no case is made out under section SC/ST Act. The doctor has found one abrasion at the left leg, a fracture of upper tibia and fibula and one more abrasion at the forearm besides multiple injury at the back. On the basis of aforesaid external injury, the doctor could not form any opinion regarding cause of death and viscera was sent for examination. The viscera report does not reveal any external poisonous substance. Similarly situated co-accused has been granted anticipatory bail by the Co-ordinate Bench of this Court vide order dated 11.01.2023 passed in Cr. Appeal (SJ) No. 3594 of 2022. The appellants have no criminal antecedents as stated at para 3 of the bail petition.

5. Learned counsel for the informant as well as learned Spl. P.P. for the State has vehemently opposed the anticipatory bail petition of the appellants.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 18.10.2022 passed by the learned Additional District and Sessions Judge -1st-cum-Special Judge, Siwan, in A.B.P. No. 2106 of 2022 arising out of Guthani P.S. Case No. 234 of 2020, is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, 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 anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge -1st-cum-Special Judge, Siwan, in A.B.P. No. 2106 of 2022 arising out of Guthani P.S. Case No. 234 of 2020, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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