

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.589 of 2024

Arising Out of PS. Case No.-453 Year-2023 Thana- NARHATT District- Nawada

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1. Ashok Kumar Son of Ramavtar Prasad R/o vill - Ankri, P.S. - Narhat, Distt. - Nawada
 2. Saruni Kumar @ Sarun Kumar @ Sunny Kumar Son of Late Shree Prasad R/o vill - Ankri, P.S. - Narhat, Distt. - Nawada

... .. Appellant/s

Versus

1. The State of Bihar
2. Nrip Raj Kumar Son of Late Gajadhar Chaudhary R/o vill - Ankri, P.S. - Narhat, Distt.- Nawada

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Nitish Kumar, Advocate
For the Resp. No. 1	:	Mr. Sadanand Paswan, A.P.P.
For the Resp. No. 2	:	Mr. Krishna Deo Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 13-03-2024

1. Heard learned counsel for the parties.

2. 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 31.10.2023 in A.B.P. No. 2902 of 2023 passed by the learned Exclusive Special SC/ST (POA) Act, Nawada in connection with Narhat P.S. Case No. 453 of 2023 registered under Sections 147, 149, 341, 323, 325, 308 and 504 of the Indian Penal Code as well as Sections 3(i)(r)(s) of the SC/ST Act.

3. Learned counsel for the appellants submits that appellants are persons with clean antecedent and have been falsely



implicated in the present case by the respondent no. 2 based on general, omnibus and ornamental allegation. It is further submitted that from bare perusal of the allegation as alleged in the FIR, it would manifest that the respondent no. 2 alleges that a DJ song was being played which was objected by him and his side on account of which seventeen named accused persons including the appellants along with ten unknown accused came variously armed and assaulted the side of the respondent no. 2 leading to injury to eight persons. It is next submitted that though there is allegation of assault against the accused persons but then the allegation is not specific. It is also submitted that the DJ was being played in a fare and the appellants had absolutely no concern with the same. It is submitted that though the appellants had visited the fare and they were known to the respondent no. 2 as such they came to be implicated. It is further submitted that there is no specific allegation against any of the accused persons. Learned counsel next submits that the alleged occurrence is said to have taken place at 02:30 a.m. as such it is difficult to ascertain whether the appellants were really present at the place of occurrence or not or they have been named merely because they were known to the respondent no. 2 from before. It is also submitted that a specific plea at para 7 of the memorandum of appeal has been taken that appellants were not present at the place of occurrence rather were



in their house. It is further submitted that prima facie in the nature of allegation no offence under the SC/ST Act is made out against the appellants as in order to attract Section 3(x) of the SC/ST Act a person should have intentionally insulted or intimidated with an intent to humiliate a member of the SC/ST in any place within the public view but then from perusal of the allegation, it would manifest that no such allegation is alleged which attracts Section 3 of the SC/ST Act nor the respondent no. 2 alleges that the occurrence was witnessed by any independent witnesses.

4. Learned Special Public Prosecutor and the learned counsel appearing on behalf of the respondent no. 2 vehemently opposed the prayer for anticipatory bail and submits that there is allegation of assault and eight persons from the side of the respondent no. 2 have received injury and injury of seven persons is reserved but then are not in a position to rebut the submissions of the learned counsel for the appellants that the appellants are persons with clean antecedent and no specific allegation is alleged against them.

5. Learned counsel for the appellants submits that the appellants will not abscond rather will cooperate in the investigation.

6. Considering the submissions made by the learned counsel for the appellants, let the appellants, above named, in the



event of their arrest or surrender before the learned Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bonds of Rs.5,000/- (rupees five thousand) each with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

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

8. However, it is made clear that if the Investigation Officer of the case files an application before the learned trial court bringing to its notice that the appellants despite giving assurance to this Court are not cooperating in the investigation in that event the learned trial court shall be at liberty to cancel the bail bonds of the appellants after giving them an opportunity of hearing.

(Satyavrat Verma, J)

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