

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.936 of 2022

Arising Out of PS. Case No.-612 Year-2021 Thana- GAYA MUFASIL District- Gaya

Sarvesh Kumar @ Chhotan Yadav @ Chhotan Shukla, Son Of Baldev Yadav,
resident Of Mohalla- Bulla Shahid, Jagjivan College, Police Station - Muffasil
And District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Bindu Kumar Paswan, Son of Late Badho Paswan Resident of Mohalla -
Bulla Shahid, Jagjivan College, Police Station- Muffasil and District - Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manish Kumar No2
For the Respondent/s	:	Mr.Sadanand Paswan Mr.Parmeshwar Vishwakarma

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 09-05-2024 1. Heard learned counsel for the appellant, learned
counsel for the informant and the learned Special Public
Prosecutor for the State.

2. The appellant has challenged the order dated
18.02.2022 passed by the learned Exclusive Special Judge,
SC/ST (P.O.A.) Act, Gaya in connection with Gaya Muffasil P.
S. Case No.612 of 2021, instituted for the offences under
Sections 435, 427, 504, 341, 323, 354 and 34 of the Indian
Penal Code and Section 3(i)(r) of the Scheduled Castes &
Scheduled Tribes (Prevention of Atrocities) Act, whereby his
prayer for grant of anticipatory bail has been rejected.

3. The learned counsel for the appellant submits that



appellant has antecedent of one case, but then, the said case was also instituted by the informant's side. It is further submitted that in sum and substance the allegation against the appellant is that he along with other accused persons put the shop of the informant on fire and when the informant came out of his house, he saw the appellant including other accused persons, who also abused him by taking caste name.

4. The learned counsel for the appellant submits that appellant has been falsely implicated in the instant case. It is also submitted that father of the appellant has filed Title Suit No.348 of 2021 in which informant is impleaded as defendant no.1. It is next submitted that the Title Suit has been filed with respect to a dispute relating to land. It is also submitted that the present appellant had filed Muffasil P. S. Case No.234 of 2021 dated 21.05.2021 alleging therein that one police personnel was sitting in the shop of the informant in a drunken condition and he entered the house of the appellant, abused and threatened him and his family members to withdraw the Title Suit No.348 of 2021. It is next submitted that the instant F.I.R. came to be instituted on 16.11.2021. The learned counsel next submits that the falsity of the allegation would manifest from the allegation as alleged in the F.I.R. itself. It is submitted that no doubt, the



shop of the informant caught fired, but then, it was an accidental fire and fire brigade had to be called for dousing the fire and the informant took the same as an opportunity to implicate the appellant. It is next submitted that had the appellant and his family members were involved in the occurrence, then they would have fled from the place of occurrence after committing the occurrence, but from perusal of the allegation as alleged in the F.I.R., it would manifest that the informant alleges that when he came out of the house, the appellant and the accused persons were standing there, who also abused him by taking caste name. It is thus submitted that from the allegation what is culled out is that the appellant after committing the occurrence was waiting for the informant to come out of the house, so that he can abuse him by taking caste name and the informant would easily identify him and get him implicated in the case. It is further submitted that had the appellant been involved in the occurrence, he would have fled from the place of occurrence after committing the occurrence.

5. The learned Special P. P. along with the learned counsel appearing on behalf of the respondent no.2 opposes the bail application, but are not in a position to rebut the submission of the learned counsel for the appellant that had the appellant



committed the occurrence in that event, the normal reaction would have been to flee from the place of occurrence and not to stay there for getting identified by the informant

6. Regard being had to the aforesaid submissions, the order dated 18.02.2022 is set-aside.

7. The appeal stands allowed.

8. The appellant, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST (P.O.A.) Act, Gaya in connection with Gaya Muffasil P. S. Case No.612 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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