

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2211 of 2021

Arising Out of PS. Case No.-719 Year-2018 Thana- KAHALGAON District- Bhagalpur

ROHIT KUMAR @ ROHIT KUMAR GUPTA Son of Sri Ashok Kumar Gupta Resident of Ward No. 7, L.C.T. Ghat, Sikargarh Tola, Kahalgaon, P.S.- Kahalgaon, District- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Anil Kumar Bharti Son of Munilal Das Resident of Shiv Kumari Pahar, ward no.- 16, Kahalgaon, Dist.- Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Kumar Jha
For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 13-11-2024 Heard learned Counsel for the appellant and learned Additional Public Prosecutor for the State.

2. An order, dated 07.01.2021, passed, by learned Additional District Judge-III-cum-Special Judge, SC/ST Act, Bhagalpur, in A.B.P. No. 2090 of 2020, is under challenge in the present appeal preferred under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellants in connection with Kahalgaon Police Station Case No. 719 of 2018 (G.R. No. 6408 of 2018), registered for the offences punishable under Sections 323/504/506/34 of the Indian Penal Code and Section 3 (r)(s) of the Scheduled Caste and Scheduled



Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

3. The prosecution case, as per the First Information Report, is that on 21.11.2018, in the noon, the appellant, along with 10 to 11 persons came to the informant's clinic, brutally assaulted him by kicks and fists and abused him by taking his caste name. On alarm being raised, informant's wife came at rescue, who was also abused and assaulted by the accused persons. While leaving, the appellant threatened the informant to leave the village, else he would be killed.

4. Learned counsel appearing on behalf of the appellant submits that the appellant has not committed any offence in the manner alleged and they have falsely been implicated in this case due to oblique motive and village politics in order to merely harass them. He next submits that the informant, taking undue advantage of his caste, has lodged several false cases against others also. The present false and fabricated case has been lodged due to the fact that the informant had purchased an almirah on credit from the shop of the appellant and when the appellant asked his money, the informant refused to pay the money back. He also submits that the appellant's father lodged First Information Report against the informant and during investigation, the police has found that



the informant was running clinic without having any medical degree and was subsequently arrested. He further submits that there is no specific allegation against the appellant of taking caste name of the informant, therefore, prima facie SC/ST act is not attracted inasmuch as caste name was not taken in full public view.

5. Having heard learned counsel for the parties and taking into consideration the fact that the learned Special Court has taken cognizance under the provisions of the of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, finding prima facie case against the appellants and in view of the decision of the Supreme Court, in the case of **Bachu Das v. The State of Bihar and Others**, reported in **(2014) 3 SCC 471**, this appeal, for grant of anticipatory bail, is not maintainable.

6. Accordingly, this appeal is dismissed and the order, dated 07.01.2021, passed, by learned Additional Sessions Judge III-cum- Special Judge, SC/ST Act, Bhagalpur, in A.B.P. No. 2090 of 2020, is hereby affirmed.

7. However, it is made clear that if the appellantss surrenders and seeks regular bail, the same shall be considered on its merit, if possible on the same date, without being



prejudiced with the fact that this Court has dismissed the anticipatory bail application of the appellant as not maintainable.

(Anil Kumar Sinha, J)

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