

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1906 of 2023

Arising Out of PS. Case No.-376 Year-2021 Thana- SHASTRINAGAR District- Patna

Alex Sakib @ Sakib Khan, (Male), aged about 20 years, S/O Md. Zeiaul Haque Khan, R/o Village-Raghunathpur, P.S.-Haspura, P.O.-Piroo, District-Aurangabad 824120

... .. Appellant

Versus

1. The State of Bihar.
2. Samant Raj (Male), aged about 30 years, S/o Rajeshwar Raj, R/o-Behind Urmila Kunj, B- Block, Shanti Lok Apartment, P.S.-Shastri Nagar, Dist-Patna 800014

... .. Respondents

Appearance :

For the Appellant	:	Mr. Nand Kumar Sagar, Advocate
For the State	:	Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 12-01-2024 Heard learned counsel for the appellant and learned Spl. P.P. for the State. However, learned counsel for the respondent no. 2 is not present despite service of notice.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail of the appellant vide order dated 18.01.2023, passed by the learned Additional District and Sessions Judge-VIth-cum-Special Judge, POCSO, Patna in A.B.P. No. 10001 of 2022 in connection with Shastri Nagar P.S. Case No. 376 of 2021 registered for the



offences punishable under Sections 447, 452, 354D(ii), 504 and 506/34 of the I.P.C. and after investigation the case has been found true under Sections 447, 452, 354D, 504, 506/34 of the I.P.C., Section 12 of the POCSO Act and Sections 3(1)(r)(w), 3(2)(va) of the SC/ST Act.

3. The prosecution case, in brief, is that the appellant and the co-accused Meraj used to harass the informant's minor sister unnecessarily and forcibly on phone and asked for to roam around in the group. It is further alleged that the accused persons also show gun to her when finds alone and threatened to shoot her brother and father. When the informant explained things to both accused, they started abusing and assaulting the informant after coming to their residence alongwith some unknown persons.

4. It is submitted by learned counsel for the appellant that the appellant is quite innocent and has falsely been implicated in the present case due to ulterior motive. It is submitted that no threat has been made by the appellant to the informant as alleged in the F.I.R. which can be seen from the CCTV footage of the society where the alleged occurrence has taken place. It is further submitted that the occurrence took place on 28.08.2021 whereas the F.I.R. has been instituted on



29.08.2021 after lapse of one day for which no explanation has been given by the prosecution. As per the F.I.R., no casteist remark has been alleged against the appellant. No member of public was present at the relevant point of time of the alleged incident. Hence, no offence under SC/ST Act is made out against the appellant. The appellant has clean antecedent as stated in paragraph no. 3 of the memo of appeal.

5. Learned Spl. P.P. for the State has opposed the prayer for anticipatory bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 18.01.2023, passed by learned Additional District and Sessions Judge-VIth-cum-Special Judge, POCSO, Patna in A.B.P. No. 10001 of 2022 in connection with Shastri Nagar P.S. Case No. 376 of 2021, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, in the event of his 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) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-VIth-cum-Special Judge, POSO, Patna in



connection with Shastri Nagar P.S. Case No. 376 of 2021
subject to the condition as laid down under Section 438(2) of
the Cr.P.C.

(Chandra Prakash Singh, J)

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