

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2295 of 2023

Arising Out of PS. Case No.-367 Year-2023 Thana- GAYA MUFASIL District- Gaya

VIJAY YADAV @ VIJAY KUMAR Son of Kamal Dev Yadav @ Kamldev
Yadav Resident of village - Jamuamwan, P.S.- Muffasil, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Shyamsundar Paswan Son of Late Jairam Paswan Resident of village -
Amraura, P.S.- Tharthari, District - Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Manisha Prakash, Adv.
For the Respondent/s : Mr.Binay Krishna, Spl. PP

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

ORAL ORDER

4 05-01-2024 Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

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 rejection of prayer for anticipatory bail of the appellant vide order dated 26.04.2023 passed by the learned Exclusive Special Judge, SC/ST Act, Gaya in connection with Muffasil P.S. Case No. 367 of 2023 dated 28.03.2023 registered for the alleged offences under Sections 147, 148, 149, 341, 323, 307, 332, 353, 504 and 506 of the Indian Penal Code and Sections 3(i)(r)(s)/ 3(2)(va) of the Scheduled Castes and Scheduled Tribes Act.

3. As per prosecution case, on the basis of secret



information, when the informant along with other officials reached the place of occurrence, they saw that 20-25 tractors loaded with sand illegally were parked there. After seeing the police force, the petitioner and the co-accused persons started fleeing away and when the informant tried to apprehend those accused persons, they abused the informant by calling his caste name and also assaulted the informant as a result of which he sustained injuries.

4. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. The allegation of assault levelled against the appellant is not specific rather general and omnibus in nature. Learned counsel has further submitted that no member of public was present at the relevant point of time of the alleged incident. Hence, no offence is made out against the appellant under the provisions of SC/ST (PoA) Act. The co-accused persons have already been granted bail by the Corrdinate Bench of this court vide order dated 20.09.2023 passed in Cr. Appeal (SJ) No. 2696 of 2023. The appellant has two criminal antecedent.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for anticipatory bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as finding some substance in the contention of the learned counsel for the appellant, the impugned order dated 26.04.2023 passed by the learned Exclusive Special Judge, SC/ST



Act, Gaya in connection with Muffasil P.S. Case No. 367 of 2023, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, in the event of his arrest/ 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 Exclusive Special Judge, SC/ST Act, Gaya in connection with Muffasil P.S. Case No. 367 of 2023, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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