

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3012 of 2023

Arising Out of PS. Case No.-368 Year-2023 Thana- GAYA MUFASIL District- Gaya

SHANKAR KUMAR Son of Rajendra Prasad Resident of village - Teli Tola,
P.S. - Muffasil, Distt. - Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Brahmddeo Paswan Son of Late Kunti Paswan Resident of village -
Bangaliya, P.S. - Mansi, Distt. - Khagaria. At Present A.S.I. at Muffasil
Police Station, Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Manish Kumar No2
For the Respondent/s	:	Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 21-11-2024 1. Heard learned counsel for the appellant and learned
Additional Public Prosecutor for the State.

2. An order, dated 24.05.2023, passed by learned
Exclusive Special Judge, SC/ST Act, Gaya, in ABP No. 175 of
2023, is under challenge in the present appeal preferred under
Section 14-A (2) of the Schedule Caste and Schedule Tribes
(Prevention of Atrocities) Act, 1989, whereby the anticipatory
bail application of the appellant in connection with Gaya
Muffasil Police Station Case No. 368 of 2023 registered for the
offence punishable under Sections 341, 323, 332, 353, 308, 447,
504, 34 of the Indian Penal Code and Section 3 (i)(r)(s) of the
Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act,



has been rejected.

3. As per the prosecution story, on 27.03.2023, the informant went to the house of the appellant to execute a summon issued under Section 354B of the IPC in a case lodged by the wife of the appellant who is also a co-accused. The summon could not be executed on that day. On 28.03.2023, the informant called the appellant, his wife in the police station and the appellant with his wife and one other person arrived at the police station. The appellant along with other accused person banged the door of the informant, abused him by his caste name and assaulted by fist and slaps.

4. Learned counsel for the appellant submits that from perusal of the FIR, prima facie no offence under SC/ST Act is made out. As per the FIR, caste name was taken by the appellant and others at the door of the house of the informant which was not in full public view. The wife of the appellant namely Seema Devi had lodged a case against the appellant and his family members under Section 498A including 354(B) of the IPC. Both appellant and his wife compromised in the case under Section 498A and started living together. When the informant went for serving the summon, they were not present in their house and upon direction given by the



informant, they went to the campus of the police station where the residential quarter of the informant is situated. He further submits that when the appellant along with his wife and others arrived at the police station, instead of the police station, they were asked to come at the residence of the informant where the wife of the appellant was taken into custody and she obtained regular bail from the competent Court. The allegation of assault is not correct and the informant, misusing his official position has lodged the present FIR.

5. On the other hand, learned counsel for the informant vehemently opposes the prayer for anticipatory bail and submits that the petitioner along with his wife and others abused the informant by his caste name, assaulted him and he was referred to the hospital where the doctor has found multiple injuries and has prescribed some medicine which would be evident from the discharge ticket of the A.N.M.C.H, Gaya.

6. Having regard to the submissions made on behalf of the parties and taking into consideration the nature of allegation and the fact that the informant is a police officer and there was dispute between husband and wife which was amicably resolved and the wife of the appellant was taken into custody at the police station by the informant, I am inclined to



grant the appellant privilege of anticipatory bail.

7. This appeal is, accordingly, allowed and the order, dated 24.05.2023, passed by learned Exclusive Special Judge, SC/ST Act, Gaya, in ABP No. 175 of 2023, is set aside.

8. Let the appellant, above named, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Act, Gaya, in connection with Gaya Muffasil Police Station Case No. 368 of 2023, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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