

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2749 of 2022

Arising Out of PS. Case No.-269 Year-2021 Thana- BANMANKHI District- Purnia

VIVEKANAND YADAV SON OF BALDEV YADAV R/O VILLAGE-
BANMANKHI, WARD NO.-3, GYAN GANGA PUBLIC SCHOOL,
BANMANKHI, P.S.- BANMANKHI, DISTRICT- PURNEA

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. MUNNI DEVI WIFE OF DEEPAK PASWAN R/O VILLAGE- HARIPUR
KALA, WARD NO.-15, P.S.- BHARGAMA, DISTRICT- ARARIA

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Nishant Kumar Sinha, Adv.
For the OP No. 2	:	Mr.Bijendra Kumar Singh, Adv.
For the Respondent/s	:	Mr.Binay Krishna, Spl.pp

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

ORAL ORDER

6 23-02-2024 Heard learned counsel for the appellant and learned
counsel for the informant as well as learned Special Public
Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act against the rejection of prayer for anticipatory bail vide order
dated 21.10.2021 passed by the learned Court of the First
Additional Session Judge-cum-Special Judge, SC/ST (POA) Act,
Purnea in connection with Banmankhi P.S. Case No. 269 of 2021
dated 26.08.2021 registered for the offence/s punishable u/ss 341,
323, 342, 325 and 307 read with section 34 of the Indian Penal
Code and 3(i)(r)w, 3(2) (va) of the SC/ST (POA) Act.



3. As per the prosecution case, the appellant and the co-accused persons are alleged to have assaulted the informant's son brutally due to that he sustained injury on his head and his hand also got fractured. When the informant went to complain, the accused persons abused by calling her caste name. They also threatened and slammed her.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. There is a delay of eight days in lodging the FIR. There is general and omnibus allegation against the appellant. It is further submitted that as per injury report, the injury is simple in nature caused by hard and blunt substance. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no specific caste name has been called by the appellant hence no case is made out under section SC/ST Act. The appellant has no criminal antecedent as stated at para 3 of the bail petition.

5. Learned counsel for the informant as well as learned Spl. P.P. for the State has vehemently opposed the anticipatory bail petition of the appellant.

6. In view of the aforesaid facts and circumstances of



the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 21.10.2021 passed by the learned Court of the First Additional Session Judge-cum-Special Judge, SC/ST (POA) Act, Purnea in connection with Banmankhi P.S. Case No. 269 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 Court of the First Additional Session Judge-cum-Special Judge, SC/ST (POA) Act, Purnea in connection with Banmankhi P.S. Case No. 269 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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