

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3556 of 2023

Arising Out of PS. Case No.-64 Year-2018 Thana- SC/ST District- Nalanda

Vikky Kumar @ Vikky Mahto, aged about 30 years, male, Son of Upendra Mahto Resident Of Village - Banabigha, P.S. - Parwalpur, District - Nalanda
... .. Appellant/s

Versus

1. The State of Bihar.
 2. Parmod Ravidas Son Of Brind Ravidas Resident of Village - Khaira, P.S. - Ben, District – Nalanda.
- Respondent/s

Appearance :

For the Appellant/s : Mr. Jayram Sharma, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 05-01-2024 Heard learned counsel for the appellant, learned counsel for the respondent no.2 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 refusal of prayer for anticipatory bail of the appellant vide order dated 13.07.2023 passed by the learned 3rd Addl. Sessions Judge-cum-Special Judge SC/ST Bihar Sharif, Nalanda in connection with A.B.P. No. 1251 of 2023 (arising out of S.C./S.T. P.S. Case No. 64 of 2018) registered for the alleged offences under Sections 341, 342, 323, 504, 506, 307, 406 read with 34 of the Indian



Penal Code and Sections 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the appellant and the co-accused persons assaulted the informant with plastic pipe and lathi by calling his caste name.

4. Learned counsel for the appellant submits that the appellant is innocent and have been falsely implicated in this case. There is general and omnibus allegation against the appellant. Learned counsel has further submitted that no member of public was present at the relevant point of time of the incident hence no case is made out under Section SC/ST Act. The co-accused has already granted anticipatory bail by the Coordinate Bench of this court vide order dated 24.01.2019 passed in Cr. Appeal (SJ) No. 21 of 2019. Learned Counsel has relied on the judgement of Apex Court in the case of *Prithvi Raj Chauhan vs. Union of India*, reported in *Writ Petition [C] No. 1015 of 2018*. The appellant has one criminal antecedent as stated in the para 3 of the bail petition.

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. Learned counsel has relied on the judgment of Apex Court in the case of *Bachu Das and State of Bihar & Others* in *Cr. Appeal No. 314 of 2014*.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of learned counsel for the appellant, the impugned order dated 13.07.2023 passed by the learned 3rd Addl. Sessions Judge-cum-Special Judge SC/ST Bihar Sharif, Nalanda in connection with A.B.P. No. 1251 of 2023 (arising out of S.C./S.T. P.S. Case No. 64 of 2018), 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 bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned 3rd Addl. Sessions Judge-cum-Special Judge SC/ST Bihar Sharif, Nalanda in connection with A.B.P. No. 1251 of 2023 (arising out of



S.C./S.T. P.S. Case No. 64 of 2018), subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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