

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5175 of 2023**

Arising Out of PS. Case No.-50 Year-2022 Thana- MAIGRA District- Gaya

Bajinath Vishwakarma @ Bajinath Mistry, S/O Mahesh Mistry R/O Village-
Pachmah, Ps. Maigra, Dist. Gaya.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Arjun Das, S/O Prameshwar Das R/O Village- Pachmah,Ps. Maigra, Dist. Gaya.

... .. Respondent/s

Appearance :

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

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

3 20-04-2024 1. Heard learned counsel for the appellant and the
learned Special Public Prosecutor for the State.

2. The appellant has challenged the order dated 29.09.2023 passed by the learned Exclusive Special Judge, SC/ST Special Court, Gaya in connection with Maigra P. S. Case No.50 of 2022, instituted for the offences under Sections 147, 148, 149, 447, 448, 436, 427, 341, 342, 379, 382, 307, 302 and 120(B) of the Indian Penal Code, Sections 3 and 4 of the Prevention of Witch Craft Act and Section 3(i)(r)(s) (v)Z(zb), 3(2)(iii)(iv)(v)(v-a) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, whereby his prayer for grant of anticipatory bail has been rejected.



3. The learned counsel for the appellant submits that appellant is a person with clean antecedent and there is no specific allegation of assault against him. It is also submitted that in sum and substance, the entire allegation hinges around Chandradeo Bhuiyan and his family members, who are alleged to have gathered at the place of occurrence along with 200 unknown accused and 64 named accused persons and they assaulted the family members of the informant leading to the death of the wife of the informant and four persons are alleged to have received grievous injuries.

4. The learned counsel for the appellant submits that Chandradeo Bhuiyan and his family members were aggrieved by the fact that as they believed that wife of the informant, who was a Witch, was instrumental in killing the son of Chandradeo Bhuiyan. It is next submitted that there was a Panchayati also in which the people had gathered, but then, the appellant was completely unaware that an occurrence of the nature as alleged, would take place. It is next submitted that appellant does not belong to the family of Chandradeo Bhuiyan, nor he is related to them in any manner.

5. The learned Special P. P. opposes the anticipatory



bail application and submits that it is not a fit case for grant of anticipatory bail as one person has been killed and four persons have received grievous injuries, but then, fairly submits that the learned counsel for the appellant can bring this fact to the notice of the Court when the appellant surrenders.

6. At this stage, the learned counsel for the appellant seeks permission to withdraw the instant anticipatory bail application.

7. Permission is accorded.

8. Accordingly, instant appeal is dismissed as withdrawn.

9. In the event, if the appellant surrenders on or before 29.04.2024, the learned trial Court shall dispose of the case on the same day keeping in mind the fact that appellant is not alleged to have assaulted, nor he is related to the family of Chandradeo Bhuiyan.

(Satyavrat Verma, J)

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