

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5166 of 2024

Arising Out of PS. Case No.-48 Year-2023 Thana- SC/ST District- Gopalganj

Shajad Alam @ Shahjad Miyan Son of Nowzed Alam @ Nawzed Miyan R/O
Vill.- Dharamchak, P.S.- Uchkagaon, Dist.- Gopalganj.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mewalal Ram Son of Maniram Ram R/O Vill.- Dharamchak, P.S.-
Uchkagaon, Dist.- Gopalganj.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 13-11-2025 Heard learned counsel for the appellant and learned
Spl. PP for the State.

2. The present appeal has been filed against the judgment and order dated 01.10.2024 passed by the learned Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST Act, Gopalganj whereby and whereunder the prayer for anticipatory bail of the appellant in connection with A.B.P. No. 2156/2024 arising out of Gopalganj SC/ST P.S. Case No. 48/2023 registered for the offence punishable under Sections 341, 323, 342, 307, 379, 504, 506 and 34 of the Indian Penal Code and sections 3(1) (r)(s), 3(2) (va) of the SC/ST (POA) Act was rejected.



3. As per prosecution case, on 11.09.2023 the informant's son was grazing the cattle in the field. It is alleged that the appellant and others are said to have left the cattle in the field so that crop would be destroyed. When his son protested, the appellant and other co-accused put a rope around his neck and when said rope tightened from both sides as a result of which his throat got choked and deeming him to be dead they fled away from the place of occurrence, threatening him and abusing by caste name.

4. Learned counsel for the appellant submits that the appellant is innocent and has committed no offence as alleged in the FIR. The appellant bears no criminal antecedent. He further submits that the version of prosecution story is beyond the reach of imagination as when three persons tightened rope around the neck of one person, there is hardly any chance to save the life of the victim and second allegation is that the appellant is said to have pointed country made pistol towards the chest of the informant's son. In this way, the story of prosecution is without any basis which falsifies the story of prosecution. He further submits that the genesis of dispute arose on account of the cattle which were left in the field and for such reason there is case and counter case between both the



parties. Just to save skin from counter version, the present case has been filed. There is inordinate delay of three days in lodging the FIR as occurrence took place on 11.09.2023 and FIR has been lodged on 14.09.2023 and no plausible explanation has been given regarding the said delay. From perusal of FIR, it is crystal clear that on the place of occurrence only three accused persons, including the appellant, are present. So, how the allegation of abusing by caste name would be in the public view. In the light of aforesaid facts and circumstances of the case, no offence is made out against the appellant under the SC/ST Act.

5. The learned counsel for respondent no.2 as well as Spl. P.P. for the State vehemently opposed the prayer for anticipatory bail of the appellant and submitted that there is allegation against the appellant to have pointed pistol and the another allegation which clearly denotes in the FIR, is that the appellant and others have abused the informant's son by caste name and hence, the appellant does not deserve anticipatory bail.

6. Considering the facts and circumstances of the case, keeping in view clean antecedent, argument advanced on behalf of both sides and also taking into consideration the material available on record, order dated 01.10.2024 passed by



learned Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST Act, Gopalganj is set aside and present appeal is allowed. The appellant above-named, in the event of his arrest or surrender before the trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (rupees ten thousands) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST Act, Gopalganj in connection with Gopalganj SC/ST P.S. Case no. 48/2023, subject to the conditions, as laid down under Section the 438(2) of Cr.P.C.

(Alok Kumar Pandey, J)

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