

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1804 of 2020

Arising Out of PS. Case No.-252 Year-2019 Thana- MADHUBAN District- East Champaran

1. CHANDRAKALA DEVI @ CHANDRAKALA DAS Wife of Wakil Sahni Resident of Village- Krishna Nagar, P.S.- Madhuban, District- East Champaran.
2. Wakil Sahani S/o Shiv Sahani Resident of Village- Krishna Nagar, P.S.- Madhuban, District- East Champaran.
3. Shiv Sahani S/o Lakhan Sahni Resident of Village- Krishna Nagar, P.S.- Madhuban, District- East Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Umesh Chandra Verma

For the Respondent/s : Mr. Vinay Krishna, Special P.P.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 27-11-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel appearing for the appellants and Shri Vinay Krishna, learned Special P.P. for the State.

At the outset, the learned counsel for the appellants seek to withdraw the present appeal qua the appellant no. 3 in order to enable him to surrender before the learned court below and seek regular bail.

Accordingly, the present appeal qua the appellant no. 3 is dismissed as not pressed.

This is an appeal under Section 14A(2) of the Scheduled



Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order dated 23.03.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran at Motihari in Anticipatory Bail Petition No. 819 of 2020 arising out of Madhuban P.S. Case No. 252 of 2019, registered under Sections 147, 148, 341, 323, 324, 307, 379, 448 354(B), 504 and 506 of the Indian Penal Code and Section 3(i) (r) (s) SC/ST (PoA) Act , whereby and whereunder the prayer of the appellants for grant of anticipatory bail has been refused.

The allegation leveled by the informant is that the appellant no. 2 had taken a sum of Rs. 5,000/- each from the relatives of the informant for the purposes of ensuring benefit under the Prime Minister Housing Project, however, despite lapse of more than six months, no such benefit was made available to them, hence the said relatives of the informant had gone to the house of the accused persons for refund of their money, however, they were pacified and advised to return back to their home. It is further alleged that subsequently the accused persons had entered the house of the relatives of the informant and as far as the appellant no. 3 is concerned, he is stated to have abused the members of the prosecution party by taking their caste name and has also assaulted them, however, the appellants no. 1 & 2 had not abused the members of the prosecution party by taking their caste name but



are stated to have assaulted the members of the prosecution party.

The learned counsel for the appellants has submitted that the appellants are innocent, have been falsely implicated in the present case and they are having clean antecedent. It is further submitted that as far as the appellant nos. 1 & 2 are concerned, there is no allegation of them having abused the members of the prosecution party by taking their caste name and they have been merely stated to have engaged in assaulting the members of the prosecution party, however, the learned counsel for the appellants, by referring to paragraph no. 10, has submitted that there is no injury report of the persons alleged to have been injured on record of the case so as to substantiate the allegations levelled by the informant.

Per contra, the learned Special P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions and taking into account the fact that as against the appellants no. 1 & 2, there is no allegation of them having abused the members of the prosecution party by taking their caste name and moreover a general and omnibus allegation has been levelled as against them, nonetheless it has been stated in paragraph no. 10 of the present appeal that there is no injury report of the so called injured person on record



of the case, I deem it fit and proper to admit the appellants to the privilege of anticipatory bail.

Accordingly, the appellants no. 1 & 2, above named, are directed to be released on anticipatory bail in the event of their arrest/surrender before the court below within a period of four weeks from today on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran at Motihari in connection with Madhuban P.S. Case No. 252 of 2019, subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

Consequently the impugned order dated 23.03.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran at Motihari in Anticipatory Bail Petition No. 819 of 2020 arising out of Madhuban P.S. Case No. 252 of 2019, is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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