

In the Court of the Exclusive Special Judge, S.C./S.T., Gaya.

Arising out of Mufassil P.S Case No 01/2019

State Vs. Sanjeev Kumar @ Nitish Kumar and others

A.B.P. No. 163/2020

Dated 30.09.2020:-

An anticipatory bail petition has been filed on behalf of the accused petitioners namely Sanjeev Kumar @ Nitish Kumar, Sanjeev Kumar Raj and Pintu Kumar who were apprehending their arrest in connection with Mufassil P.S Case No 01/2019 registered u/s 147, 148, 149, 341, 323, 307, 379 of I.P.C. and 3(1)(r)(s), 3(2)(va) of SC/ST (POA) Act.

The case of the prosecution in short is that on 01.01.2019 at about 8.30 A.M. on the occasion of New Year informant Soni Devi's son Raju Kumar was playing cricket with some boys resident of the same mohalla during which the boys namely Nagendra Kumar, Pintu Kumar, Nitish Kumar and Sanjeev Kumar got dispute with him which was subsided by some local residents but again at about 10 hr. Nagendra Kumar, Jitendra Kumar, Nitish Kumar, Pintu Kumar, Sanjeev Kumar laced with deadly weapons came at the house of the informant, started abusing in the name of her caste and Nitish Kumar shot fire against the informant's husband with a gun with intention to kill but it was escaped. Thereafter, Nagendra and Sanjeev Kumar assaulted her husband which caused serious injuries on his head due to which he fell down on the ground. Thereafter, Sanjay Kumar and Deepu Kumar along with 10-15 associates started assaulting him upon which the informant tried to save her husband but the accused started to do obscene activities with her who was also beaten up by them and her clothes were also torn out. A golden ear-ring was snatched by the accused who fled away when on alarm nearby villagers came to save them.

The Ld. Counsel for the petitioners submitted that they are quite innocent and have falsely been implicated in this false case.

The Ld. Spl P.P. opposed the prayer for the anticipatory bail petition and submitted that section 18 of the SC/ST (POA) Act bars section 438 of Cr.P.C. so the anticipatory bail application of the petitioners is not maintainable.

Heard both sides and perused the record. However, this is an anticipatory bail petition and a bare perusal of the F.I.R., prima-facie discloses that an act of atrocity punishable u/s 3(1)(r)(s), 3(2)(va) of SC/ST (POA) Act has been

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committed against the member of SC/ST community. Section 18 of the SC/ST (POA) Act puts an embargo on the applicability of the section 438 of the Cr.P.C. Accordingly, as per section 18 of the Act, this petition for the anticipatory bail is not maintainable in this case.

Hence, this anticipatory bail petition is hereby rejected as being not maintainable.

Dictated and corrected by

Sd/-

Spl. Judge,

S.C./S.T. (POA) Act, Gaya.