
(2019) 11 JH CK 0027

In the Jharkhand High Court

Case No : Criminal Appeal (S.J.) No. 414 Of 2019

Deepak Modak And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 05-11-2019

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(i)(g), 18

Citation : (2019) 11 JH CK 0027

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Kalyan Banerjee, Suraj Singh

Final Decision : Dismissed

Judgement

1. Heard Mr. Kalyan Banerjee, counsel appearing on behalf of the appellants.
2. Heard Mr. Suraj Singh, counsel appearing on behalf of the O.P. No. 2.
3. Nobody appears on behalf of the State.
4. Counsel for the opposite party No. 2 has filed counter affidavit in this case, which is taken on record.
5. This appeal has been filed for the following relief: -
"That the instant Memo of Appeal is directed against the Order dated 28.03.2019, passed by the Addl. Sessions Judge-VII-Cum Spl. Judge, SC/ST Dhanbad, in SC/ST Case No. 47/2016/M.C.A No.516/2019, arising out of C.P. Case No. 3238 of 2016, whereby and whereunder the Anticipatory Bail of the petitioners has been rejected for the allegedly committing non bailable offences under section 3(i)(g) of SC/ST (P.O.A) Act which is pending in the court of the Additional Sessions Judge-VII-cum-Spl-Judge, SC/ST, Dhanbad."
6. Counsel for the appellants submits that the entire dispute arises out of claim

for land and the appellants have purchased the land by way of registered documents from one Haripado Kumhar registered at Culcutta and accordingly the property belongs to the appellants and the opposite parties are the aggressors. He submits that the learned court below has rejected the prayer for anticipatory bail of the appellants by referring to Section 18 of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the Act of 1989) and held that the same is not maintainable. He further submits that considering the fact that the complainant is the aggressor, prima facie the anticipatory bail of the appellants could not have been rejected. The learned counsel submits that cognizance under Section 3(i) (g) of the Act of 1989 has been taken by the learned court below.

7. Counsel for the opposite party No. 2, on the other hand, submits that the opposite party is the owner of the property by virtue of registered deed No. 8606 dated 08.11.1946 and it is not correct to say that the opposite party is the aggressor. He submits that considering the facts and circumstances of this case, it cannot be said that prima facie no case under the provisions of the Act of 1989 is made out against the appellants and accordingly the learned court below was right in rejecting the application for anticipatory bail of the appellants by referring to Section 18 of the aforesaid Act of 1989.

8. Nobody appears on behalf of the State to oppose the prayer for bail.

9. After hearing the counsel for the parties and after considering the nature of allegations made in the complaint petition, this Court is not inclined to enlarge the appellants on anticipatory bail and does not find any illegality or perversity in the impugned order. Accordingly, this appeal is hereby dismissed.

10. Considering the facts and circumstances of this case, the appellants are directed to surrender before the learned court below by 20.11.2019 and the appellants are at liberty to make prayer for regular bail before the learned court below and also make prayer for disposal of the bail application on the very same day and if such request is made, the learned court below shall consider the same and pass appropriate order in accordance with law.

11. Learned counsel for the opposite party No. 2 has no serious objection to the consideration of the prayer for bail of the appellants on the same day.

12. Learned court below will not be prejudiced by the dismissal of the present appeal.

13. Let a copy of this order be communicated to the court concerned through 'FAX'.