

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1904 of 2019

Arising Out of PS. Case No.-422 Year-2018 Thana- MAHESI District- East Champaran

1. Birendra Kumar Yadav S/o Late Ramashary Prasad Resident of Chintamanpur, Mehsi, P.O and P.S.- Mehsi, District- East Champaran
2. Akash Jaiswal S/o Baidyanath Choudhary R/O Kasba Mehsi, P.O and P.S.- Mehsi, District- East Champaran

... .. Appellants.

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajeev Ranjan
For the Respondent/s	:	Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

7 16-09-2019 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 24.01.2019 passed by learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, East Champaran at Motihari in connection with Mehsi P.S. Case No. 422 of 2018 registered under Sections 323, 341, 325, 307, 436, 427, 504, 447 and 34 of the Indian Penal Code and Section 3(iii), 3 (v) & 3 (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Seventeen named accused persons including the appellants were unloading the sand and stone chips on the sold out and own land of the informant and on the protest made by the informant they slated in the name of caste and assaulted him by means of slap. When Subodh Kumar Chaurasia, Ajay Kumar Yadav and Arvind Kumar rushed in his rescue Ajit Kumar assaulted on the head of Subodh Kumar Chaurasia by means of rod. They also torched the hut of the informant in which eatable items have reduced into ashes.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. Appellants have been falsely implicated in the case due to land dispute. They have purchased the land in question from the pattidar of the informant and regarding the said land the informant and others have lodged Title Suit No.488 of 2017 against the appellant Birendra Kumar Yadav and others. Moreover in the said case the informant has not stated about standing of the hut on the land in question rather the other accused persons who are defendants in the aforesaid case in their written statement has specifically stated that after purchasing the land they constructed the hut on the land. More so, I.O. has simply found the hut torched at the place of



occurrence. He has not found any house hold articles or any eatable item burnt at the place of occurrence. The injury sustained by the victim is simple in nature. The allegation levelled against the appellants is not specific rather general and omnibus in nature. Appellants have no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the above named appellants, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, East Champaran at Motihari in connection with Mehshi P.S. Case No. 422 of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Prakash Chandra Jaiswal, J)

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