

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2592 of 2019**

Arising Out of PS. Case No.-11 Year-2019 Thana- SC/ST District- Siwan

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1. Santosh Kumar Gupta S/o Late Yugal Kishore Prasad Resident of Village- Sanartoli, P.S.- Siwan Town, District- Siwan.
 2. Ramawati Devi W/o Rajendra Prasad Resident of Village- Makdum Sarai, Siwan, P.S.- Sarai O.P., District- Siwan.
 3. Savitri Devi W/o Amarnath Prasad Resident of Village- Tamkui Raod, Kushinagar, P.O. and P.S.- Kushinagar, Uttar Pradesh.

... .. Appellants.

Versus

The State of Bihar.

... .. Respondent.

Appearance :

For the Appellant/s : Mr. Ranjan Kumar Dubey, Advocate.
For the Respondent/s : Mrs. Usha Kumari-1, Special P.P.

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

4 27-08-2019 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 21.05.2019 passed by learned 1st Additional Sessions Judge cum Special Judge, Siwan in connection with Siwan SC/ST P.S. Case No.11 of 2019 registered under Sections 448, 341, 323, 325, 354 B and 509/34 of the Indian Penal Code and Section 3(1) (r), 3 (1) (s) of the Scheduled Castes and



Scheduled Tribes (Prevention of Atrocities) Act.

On 16.04.2019 when the informant was going to fetch the water at the hand pump, appellant Santosh Kumar Gupta, Gayatri Devi and Ramawati Devi assaulted the informant intruding into the house by means of rod and slated her in the name of caste.

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. As a matter of fact, the landlord of the informant has purchased unpartitioned share of the house from the brother of the appellant no.1-Santosh Kumar Gupta and in order to mount pressure upon the informant to execute the rest of the land in his favour landlord Sanjay Kumar Pandey got this false and frivolous case lodged against the appellants. The allegation levelled against the appellants is not specific rather general and omnibus in nature. The occurrence is said to have taken place on 16.04.2019 and 19.04.2019 but the independent witnesses have not supported the occurrence of 19.04.2019. Informant has sustained only two injuries and that too on non-vital part and the nature of the injury is simple in nature. The said injuries are said to be assaulted by the appellants and other accused persons on



two different dates, which creates serious doubt about the prosecution case. Regarding the occurrence on 16.04.2019, the informant has not lodged any case earlier rather on 21.04.2019 this case has been lodged after abnormal and inordinate delay of 5 days without assigning any plausible explanation for the same. It is further submitted that the appellant no.1-Santosh Kumar Gupta is speech impaired by 80% and he cannot speak clearly and there is no question of slating the informant by him.

Learned Spl. PP for the State opposing the prayer for bail submitted that four criminal cases are pending against appellant no.1, hence he does not deserve bail.

In the facts and circumstances of the case, the above named appellants, barring appellant no.1-Santosh Kumar Gupta, 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, Siwan in connection with Siwan SC/ST P.S. Case No.11 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Having regard to facts and circumstances of case,



I am not inclined to enlarge the appellant no.1-Santosh Kumar Gupta on bail. The prayer for bail of the appellant no.1 is hereby rejected. However, the appellant no.1 is directed to surrender before the learned Court below within six weeks from today and seek regular bail and the learned Court below would pass order in accordance with law without being prejudiced by this order on the very date of surrender.

Accordingly, this appeal is disposed of.

(Prakash Chandra Jaiswal, J)

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