

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3168 of 2019**

Arising Out of PS. Case No.-7 Year-2019 Thana- SC/ST BETTIAH District- West
Champaran

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1. BACHA KHATOON @ RABIYA KHATOON Wife of Yunish Mian
Resident of Village- Charihani, P.S.- Matiyariya, District- West Champaran.
 2. Yunush Mian Son of Late Nurddin Mian Resident of Village- Charihani,
P.S.- Matiyariya, District- West Champaran

... .. Appellants.

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arbind Kumar Singh

For the Respondent/s : Mr. Sadanand Paswan

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

ORAL ORDER

3 16-10-2019 Heard learned counsel for the appellants, learned
counsel for the informant 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 12.06.2019 passed by learned 1st Additional
Sessions Judge cum Special Judge (SC/ST/POCSO Act), West
Champaran at Bettiah in connection with Bettiah SC/ST P.S.
Case No. 07 of 2019 registered under Sections 147, 149, 341,
323, 504 & 379 of the Indian Penal Code and Section 3(1) (r)



(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Nine named accused persons including the appellants arriving at the house of the informant and slating her in the name of her caste assaulted her by means of lathi. When her husband rushed in her rescue they also assaulted him by means of lathi. Co-accused Jaibun Nesha snatched silver chain of the informant.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. As a matter of fact, the appellants have lodged Matiyariya P.S. Case No.10 of 2019 on 18.02.2019 against the husband of the informant and others and in order to save skin from the said case this false and frivolous case has been lodged against the appellants. None has sustained injury in the occurrence. There is no allegation of slating the informant and her husband in the specific name of their caste and moreover the said slating is said to have taken place at the house of the informant and not in public view, hence no offence under SC/ST Act is made out against the appellants. There is inordinate delay of 10 days in lodging the FIR without assigning any plausible explanation for the said delay, which creates serious doubt about



the prosecution case. Appellants have no criminal antecedent.

On the other hand, learned Special P.P. for the State and the learned counsel for the informant 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/POCSO Act), West Champaran at Bettiah in connection with Bettiah SC/ST P.S. Case No. 07 of 2019, 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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