

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3347 of 2019

Arising Out of PS. Case No.-59 Year-2019 Thana- PARIHAR District- Sitamarhi

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1. Rakesh Rai Son of Late Singheshwar Rai Resident of Village - Siswa, P.S.-
Parihar, District- Sitamarhi
 2. Saraswati Devi Wife of Late Singheshwar Rai Resident of Village - Siswa,
P.S.- Parihar, District- Sitamarhi

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Alok Kumar Alok

For the Respondent/s : Mrs. Usha Kumari 1

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

ORAL ORDER

3 16-10-2019 Heard learned counsel for the appellants and learned
Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act against the refusal of prayer of anticipatory bail
vide order dated 12.07.2019 passed by learned 1st Addl. District
& Sessions Judge cum Special Judge, SC/ST, Sitamarhi in
Parihar P.S. Case No. 59 of 2019 registered under Sections 341,
323, 324, 307, 504, 506/34 of the Indian Penal Code and
Section 3(1)(r)(w) of the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act.

While the informant was constructing house over



12 khatas land accorded to her by her husband, five named accused persons including the appellants arrived there and slating the informant asked her to stop construction work, and on protest made by the informant, appellant Rakesh Rai assaulted on the head of mother of the informant by means of rod while appellant Saraswati Devi assaulted on the hand of brother of the informant by means of rod and other accused persons also assaulted other persons by means of knife and rod.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. They have been falsely implicated in this case due to land dispute. Informant does not happen to be wife of Singheshwar Rai as she has herself stated in G.R. Case No. 611 of 2006 Trial No. 2177 of 2006 before S.D.J.M., Sitamarhi that she does not happen to be wife of Singheshwar Rai. She has filed this false and frivolous case in order to grab the land of appellant Saraswati Devi, who had inherited the said property after demise of her husband. Appellant Saraswati Devi has also filed a complaint case against the informant of this case and others. There is no allegation of slating the informant in the name of her caste against the appellants. Injury sustained by the mother of the informant is simple in nature. Albeit the injury sustained by



brother of the informant attributed to appellant Saraswati Devi is grievous but, it is on non-vital part. There is inordinate and abnormal delay of 1 month 17 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 Spl. P.P. opposed the bail prayer.

In the facts and circumstances of the case, let the above named appellants be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Addl. District & Sessions Judge cum Special Judge, SC/ST, Sitamarhi in Parihar P.S. Case No. 59 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 appeal is allowed.

(Prakash Chandra Jaiswal, J)

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