

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3988 of 2019**

Arising Out of PS. Case No.-49 Year-2018 Thana- JAMALPUR District- Darbhanga

SHAMBHU MUKHIYA Son of Nago Mukhiya Resident of Village-Bauram,
P.S.-Jamalpur, District-Darbhangha.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ajay Kumar

For the Respondent/s : Mr.Sadanand Paswan

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

ORAL ORDER

3 05-11-2019 Heard learned counsel for the appellant and learned
Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the SC/ST Act against the refusal of prayer for anticipatory bail vide order dated 19.07.2019 passed by learned 1st Addl. Sessions Judge cum Special Judge, SC/ST Act, Darbhanga in Jamalpur P.S. Case No. 49 of 2018 registered under Sections 341, 323, 504, 506, 448, 354(B) and 379/34 of the Indian Penal Code and Section 3(1)(r)(s) of the SC/ST Act.

Over row of damaging the moong crop of the appellant by the calf of the informant, appellant Shambhu Mukhiya started slating her husband and on protest, on his exhortation all the accused persons slating the husband of the informant in the name of his caste assaulted him by means of



lathi and danda. Resultantly he fell senseless. When she rushed in his rescue, appellant assaulted her by means of leg and fist and tore her blouse and saree. Accused persons also assaulted her sister-in-law and appellant took out her Rs.20000/- breaking the box.

It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case. There is case and counter case between the parties. The allegation levelled against the appellant is not specific rather general and omnibus in nature. Informant and her sister-in-law have not sustained any injury in the occurrence and no external injury was found on the person of the husband of the informant by the doctor on his examination. There is no allegation of slating the husband of informant in the specific name of his caste against the appellants. Allegation of theft is super addition. There is inordinate and abnormal delay of 4 days in lodging the F.I.R. without assigning any plausible explanation for the aforesaid delay. Appellant has no criminal antecedent.

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

Having regard to the facts and circumstances of the



case, let the above named appellant, be released on bail, in the event of his 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) with two sureties of the like amount each to the satisfaction of the learned 1st Addl. Sessions Judge cum Special Judge, SC/ST Act, Darbhanga in connection with Jamalpur P.S. Case No. 49 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 appeal is allowed.

(Prakash Chandra Jaiswal, J)

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