

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3890 of 2019

Arising Out of PS. Case No.-77 Year-2019 Thana- BAIKUNTHPUR District- Gopalganj

1. Abhishek Thakur Son of Ashok Thakur Resident of Village - Pipara, P.S.- Baikunthpur, Dist.- Gopalganj.
2. Sumit Rai Son of Ashok Rai Resident of Village - Banaura, P.S.- Baikunthpur, Dist.- Gopalganj.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 2879 of 2019

Arising Out of PS. Case No.-77 Year-2019 Thana- BAIKUNTHPUR District- Gopalganj

1. Tarkeshwar Mahto @ Tarkeshwar Kumar Son of Satan Mahto Resident of Village - Banaura, P.S.- Baikunthpur, Distt - Gopalganj.
2. Sonelal Mahto Son of Yugendra Mahto @ Yogendra Mahto Resident of Village - Banaura, P.S.- Baikunthpur, Distt - Gopalganj.
3. Lal Babu Mahto Son of Satan Mahto Resident of Village - Banaura, P.S.- Baikunthpur, Distt - Gopalganj.
4. Satan Mahto Son of Late Ram Prasad Mahto Resident of Village - Banaura, P.S.- Baikunthpur, Distt - Gopalganj.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 3890 of 2019)

For the Appellant/s : Mr. Uday Pratap Singh

For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

(In CRIMINAL APPEAL (SJ) No. 2879 of 2019)

For the Appellant/s : Mr. Sushil Kumar

For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

2 16-09-2019 As the aforesaid two criminal appeals have cropped

up from the same P.S. Case, hence, they are taken up together



and are being disposed of by common order.

Heard learned counsel for the appellants and learned Spl. PP for the State.

Aforesaid two appeals have been preferred 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 orders dated 26.07.2019 and 31.05.2019, respectively, passed by learned 1st Addl. Sessions Judge, Gopalganj in Baikunthpur P.S. Case No. 77 of 2019 registered under Sections 341, 323, 504, 506/34 of the Indian Penal Code and Section 3(i)(r)(w)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellants along with one co-accused Dipak Mahto used to send gross message to the mother of the informant on her mobile and when the informant and her mother arrived at the house of Tarkeshwar Mahto to quiz about aforesaid misdeed, he started slating her in the name of her caste and Lalbabu Mahto, Pawan Mahto and Satan Mahto also arrived there and all the accused persons assaulted the informant and her mother. Appellant Tarkeshwar Mahto assaulted on the right hand of the informant by means of dagger inflicting injury in her finger.



It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in this case due to dirty village politics. It is not mentioned in the FIR as by whom mobile and by which number the message used to be sent to the mother of the informant. Allegation levelled against the appellants is not specific rather general and omnibus in nature. Allegation of assaulting the informant by means of dagger is against appellant Tarkeshwar Mahto. Slating the informant and her mother is said to have been made at the house of Tarkeswar Mahto and not in the public view, hence, no offence under SC/ST Act is made out against the appellants. Barring the dagger blow, neither informant nor her mother sustained injury in the occurrence. Appellants have no criminal antecedent.

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

As there is direct allegation against appellant Tarkeswhar Mahto of assaulting the informant by means of knife and doctor has found two incised wound on her person though simple in nature, I am not inclined to enlarge the appellant Tarkeshwar Mahto on anticipatory bail. Accordingly, his prayer is rejected.



However, he is directed to surrender before the court below within six weeks and seeks regular bail and learned court below shall pass order in accordance with law considering the facts and circumstances of the case without being prejudiced by this order.

So far as the appellant nos. 1 and 2 of Cr. Appeal (SJ) No. 3890 of 2019 and appellant nos. 2 to 4 of Cr. Appeal (SJ) No. 2879 of 2019 are concerned, they are directed to 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. Sessions Judge, Gopalganj in connection with Baikunthpur P.S. Case No. 77 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, order dated 26.07.2019 passed by learned lower court in A.B.P. No. 1264 of 2019 is set aside and the Cr. Appeal (SJ) No. 3890 of 2019 is allowed while Cr. Appeal (SJ) No. 2879 of 2019 is disposed of.

(Prakash Chandra Jaiswal, J)

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