

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4280 of 2019

Arising Out of PS. Case No.-61 Year-2017 Thana- SC/ST BETTIAH District- West
Champaran

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1. ASHOK KUSHWAHA @ ASHOK KUMAR Son of Asarfi Kushwaha @ Asharfi Mahato Resident of Village - Prasauni, P.S.- Sathi, Distt - West Champaran.
 2. Savita Devi @ Sabita Devi Wife of Ashok Kushwaha @ Ashok Kumar Resident of Village - Prasauni, P.S.- Sathi, Distt - West Champaran.
 3. Asarfi Kushwaha @ Asharfi Mahato Son of Late Chhathu Mahato Resident of Village - Prasauni, P.S.- Sathi, Distt - West Champaran.
 4. Jharia Devi Wife of Asarfi Kushwaha @ Asharfi Mahato Resident of Village - Prasauni, P.S.- Sathi, Distt - West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey

For the Respondent/s : Mr.Usha Kumari I

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 21-11-2019 Heard learned counsel for the appellants and learned
Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the SC/ST Act against the refusal of prayer for anticipatory bail vide order dated 16.08.2019 passed by learned 1st Addl. Sessions Judge cum Special Judge, West Champaran at Bettiah in Sadar Bettiah SC/ST P.S. Case No. 61 of 2017 registered under Sections 447, 341, 323, 354 and 504/34 of the Indian Penal Code, Section 3/4 Prevention of Witch Craft Practices Act and Section 3(i)(r)(ii)(v)



(a) of the SC/ST Act.

Appellants descending at the house of the informant slated her in the name of her caste branding her dyne and on exhortation of the appellant Ashok Kushwaha, all the accused persons assaulted her by means of lathi. Appellant Savita Devi snatched her golden chain while appellant Asarfi Kushwaha tearing her blouse tried to outrage her modesty.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. As a matter of fact, wife of the appellant no.1 has lodged Sathi P.S. Case No. 132 of 2017 against the husband of the informant and others preceding to the case under hand and in order to save skin from the said case informant has lodged this false and frivolous case against the appellants after 12 days of the occurrence without assigning any plausible explanation for the said delay. Informant has not sustained any injury in the occurrence. Allegation of theft is super addition. Allegation of slating and assaulting the informant levelled against the appellants is not specific rather general and omnibus in nature. Parties to the case have compromised the matter. Appellants have 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 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 the learned 1st Addl. Sessions Judge cum Special Judge, West Champaran at Bettiah in connection with Sadar Bettiah SC/ST P.S. Case No. 61 of 2017, 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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