

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4276 of 2019

Arising Out of PS. Case No.-17 Year-2019 Thana- DURAULI District- Siwan

1. KANHAIYA MISHRA Son of Late Bhrigunath Mishra Resident of Village - Punak Bujurg, P.S.- Darauli, District- Siwan
2. Pawan Mishra Son of Kanhaiya Mishra Resident of Village - Punak Bujurg, P.S.- Darauli, District- Siwan
3. Durgawati Devi Wife of Late Bhrigunath Mishra Resident of Village - Punak Bujurg, P.S.- Darauli, District- Siwan
4. Suhail Mishra @ Pardip Mishra Son of Kanhaiya Mishra Resident of Village - Punak Bujurg, P.S.- Darauli, District- Siwan
5. Punita Kumari D/o - Kanhaiya Mishra Resident of Village - Punak Bujurg, P.S.- Darauli, District- Siwan
6. Manju Devi Wife of Kanhaiya Mishra Resident of Village - Punak Bujurg, P.S.- Darauli, District- Siwan

... .. Appellants.

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Kumar Tiwary
For the Respondent/s : Mrs. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

2 16-10-2019 Heard learned counsel for the appellants 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 20.08.2019 passed by



learned 1st Additional Sessions Judge cum Special Judge (SC/ST Act), Siwan in connection with Darauli P.S. Case No. 17 of 2019 registered under Sections 147, 148, 149, 323, 341, 497, 504, 506 of the Indian Penal Code and Section 3(i) (r s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Co-accused Pankaj Kumar Mishra was having illicit relation with the wife of the informant, namely, Hewanti Devi (co-accused) and he had taken his wife to his house. When the informant along with his sons arrived at his house to enquire about the matter, all the accused persons named in the F.I.R. including the appellants got infuriated and slated them and on protest made by the informant they assaulted them by means of lathi and Pankaj Kumar Mishra spat on his person and slated him in the name of caste.

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 the case merely because they happen to be father, mother, grandmother, sisters and brothers of co-accused Pankaj Kumar Mishra. The allegation levelled against the



appellants is not specific rather general and omnibus in nature. None has sustained injury in the occurrence. There is no allegation of slating the informant and his son in the name of caste against the appellants, hence no offence under SC/ST Act is made out against them. There is inordinate and abnormal delay of 41 days in filing the complaint case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. Appellants have no criminal antecedent.

Learned Spl. PP for the State 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 Addl. Sessions Judge cum Special Judge (SC/ST Act), Siwan in connection with Darauli P.S. Case No. 17 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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