

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.435 of 2020**

Arising Out of PS. Case No.-171 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. VIJAY KUMAR Son of Late Mahendra Mahto,
 2. Uday Kumar, Son of Late Mahendra Mahto,
 3. Bablu Kumar Son of Vijay Kumar,
All Residents of Village - Harpur Narayanpur, P.S.- Pusa, District-
Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Punam Devi, D/O -Raju Paswan and Wife of Ajit Kumar, Resident of
Village - South Harpur Narayanpur, P.S.- Pusa, District- Samastipur. Mobile
- 7563037360

... .. Respondent/s

Appearance :

For the Appellant/s	:	Jitendra Narain Sinha
For the Respondent/s	:	Mr.Sadanand Paswan
For the O.P. No. 2	:	Mr. Ajay Kumar

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

2 16-12-2020 Heard the parties through virtual court proceedings.

This is an appeal under Sections 14 (A) (2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act, 1989 (hereinafter in short referred to as the ‘S.C./S.T. Act’), against the refusal of prayer for bail vide order dated 03.01.2020 passed by the learned 1st Additional Sessions Judge Special Judge cum Special Judge, Samastipur in connection T.R. No. 1243/2019 arising out of Complaint Case No. 171/2019 registered under Sections 341, 323, 354B, 379, 504 of the Indian



Penal Code and Sections 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act but cognizance has been taken under Sections 323, 341, 354B, 379, 504 and Sections 3(1), (r), (s), (w) of the SC/ST (Prevention of Atrocities Act.

Prosecution case in brief is that on 28.07.2019, the complainant Punam Devi filed complaint and stating therein that on 29.05.2019 the family member of the complainant had gone to Civil Hospital of Samstipur as the mother in law of the complainant was admit. At about 01.00 pm in night, the complainant wake up on hearing some sound and found that the appellant no. 1 was standing beside her, the complainant tried to raise alarm but her mouth was pressed by the appellant no. 1 who tried to out-raised the modesty of the complainant by tearing her wearing. However, the complainant rescued herself and raised alarm upon which the witnesses claimed and then the appellant assaulted the complainant and fled away. It is further alleged that during the course of fleeing, his sleeper and towel was left at the place of occurrence and in the morning the complainant appraised all the facts to her Gotani and Devar who went to the house of the accused but they were assaulted and the appellant no. 2 snatched Mangal Sutra and appellant no. 3



snatched earring from the possession of the Gotani of the complainant and they all abused by saying caste name.

Learned counsel for the appellants submits that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in this case due to dirty village politics. The occurrence took place on 29.05.2019 and present complain case filed on 28.07.2019 after lapse of two months and there is no explanation for such delay. As a matter of fact on 28.05.2019 the complainant and her family members were engaged in plucking litchi and jackfruit and when protest was made, the family members of the accused persons were abused and assaulted for which on the basis of written report of the appellant no. 1 the police registered Pusa P.S. Case No. 60/2019 against the present complainant and her family members, registered for offences under Sections 323, 341, 354, 379, 504 and 506 of the I.P.C. The house of the parties are situated side by side so the allegation that the complainant was abused when she went to the house of accused persons does not comes under the purview of public view, so the provision of SC/ST Act is not attracted. The appellants have no criminal antecedent. It is admitted that there is enmity between the parties.

Learned Special P.P. for the State opposes the



prayer for bail.

In the facts and circumstances of the case, the above named appellants, in the event or 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. 25,000/- (Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, Samastipur in connection with Complaint Case No. 171/2019, 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.

(Anjani Kumar Sharan, J)

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