

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.40 of 2021

Arising Out of PS. Case No.-7 Year-2020 Thana- DHANAHA District- West Champaran

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SHAILESH PANDIT @ SHAILESH MISHRA S/O Harigovind Mishra R/o
Village- Ghaghwa, P.S. - Dhanha, District - West Champaran.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey

For the Respondent/s : Mr.A.G.

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 28-10-2021 Heard learned counsel for the appellant and learned
counsel for the State.

Learned counsel for the appellant is directed to
remove all the defects pointed out by the Stamp Reporter within
one month.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail by
order dated 16.09.2020, passed by learned Additional District &
Sessions Judge, Ist-cum-Special Judge, SC/ST(POA) Act, West
Champaran at Bettiah, in connection with Dhanha P.S. Case
No.07 of 2020, registered under Sections 341, 323, 354, 379,
504 of the Indian Penal Code and Section 3(i)(r)(s)(w) of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per allegation, the informant along with Munni Devi and Dulari Devi went in the field of the appellant for picking some woods for jalawan whereupon appellant assaulted them and abused them and took away Mangalsutra from the neck of the informant.

Learned counsel for the appellant has submitted that the FIR shows itself that the occurrence did not take place due to malicious feeling of the caste. Admittedly, the informant herself went into the field of the appellant, as she was trespasser.

Considering the fact that the informant along with two ladies trespassed into the field of the appellant, as such, the occurrence cannot be said to be taken place due to malicious feeling of the caste, the impugned order dated 16.09.2020 is set aside and the appeal is allowed.

Let the appellant, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousands) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge, Ist-cum-Special Judge,

SC/ST(POA) Act, West Champaran at Bettiah, in connection with Dhanha P.S. Case No.07 of 2020, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Office shall ensure that all defects are removed by the petitioner within the stipulated time provided in para 2 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey , J)

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