

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2365 of 2022**

Arising Out of PS. Case No.-4 Year-2022 Thana- SC/ST District- Aurangabad

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1. Lalu Yadav @ Lalu Kumar, S/O Kuldip Yadav @ Kuldeep Yadav R/O Village- Gurgaiya, P.O.- Gurgaiya Karma, P.S.- Deo, District- Aurangabad (Bihar)
 2. Rajeev Kumar @ Rajiv Kumar, S/O Kuldip Yadav @ Kuldeep Yadav R/O Village- Gurgaiya, P.O.- Gurgaiya Karma, P.S.- Deo, District- Aurangabad (Bihar)

... .. Appellant/s

Versus

1. The State of Bihar
2. Sunil Kumar S/o Vishundeo Ram R/o village- Gurgaiya, P.O.- Gurgaiya Karma, P.S.- Deo, District- Aurangabad (Bihar)

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Uma Kant Mishra

For the Respondent/s : Mr. Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 14-09-2022 The learned counsel for the appellants at the outset seeks permission to withdraw the present appeal with respect to appellant no.1, who was arrested during pendency of the case.

Permission is accorded.

Accordingly, instant appeal is dismissed as withdrawn with respect to appellant no.1.

Heard learned counsel for the appellant no.2 and the learned Special Public Prosecutor for the State.

The appellant has challenged the order dated 16.06.2022 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST), Aurangabad in



connection with SC/ST (Aurangabad) P. S. Case No.04 of 2022, instituted for the offences under Sections 341, 323, 504, 506, 354, 354(B), 34 of the Indian Penal Code and Section 3(1)(r)(s), 3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.

The learned counsel for the appellant submits that the appellant no.2 is a person with clean antecedent and the informant alleges that the accused persons including the appellant along with other co-accused persons assaulted and abused him by taking his caste name as recorded in the F.I.R. and when his brother and mother came to his rescue, they were also assaulted. Further, the accused persons dashed his mother on the ground due to which, she was disrobed.

The learned counsel for the appellant submits that the appellant has been falsely implicated in the present case. It is next submitted that no reason or motive for the occurrence is alleged in the F.I.R. It is also submitted that from perusal of the allegation as alleged in the F.I.R., it would manifest that the occurrence had taken place in the house of the informant and thus, was not in public view, as such, prima facie no offence under the SC/ST (P.O.A.) Act is made out. It is also submitted that the present case came to be instituted by way of after thought for implicating the accused persons including the



appellant as the date of occurrence is 21.04.2022 and the F.I.R. was instituted after a delay of four days without any plausible explanation on 25.04.2022, which further creates doubt with regard to the veracity of the allegation as alleged.

Regard being had to the aforesaid submissions, the order dated 16.06.2022 is set-aside.

The appeal stands allowed.

The appellant, above-named, in the event of his arrest or surrender before the learned Court below within a period of eight weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST), Aurangabad in connection with SC/ST (Aurangabad) P. S. Case No.04 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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