

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2789 of 2022

Arising Out of PS. Case No.-77 Year-2020 Thana- SC/ST District- Saran

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1. Mamta Devi W/O Harishankar Rai Resident Of Village- Sikatiya Damodarpur, P.S.- Sonapur, District- Saran.
 2. Vikas Rai @ Vikash Kumar Ray S/O Harishankar Rai Resident Of Village- Sikatiya Damodarpur, P.S.- Sonapur, District- Saran.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Abhishek Kumar Kanaujiya S/O Dinanath Baitha Resident Of Village- Barbatta, P.O. And P.S.- Sonapur, District- Saran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manish Chandra Gandhi, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 14-12-2022 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

Learned counsel for the appellants undertakes to
remove the defects within four weeks.

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 21.07.2022 passed by learned Additional
Sessions Judge-3rd-cum-Special SC/ST Act Court, Saran in
connection with SC/ST P.S. Case No. 77 of 2020 registered



under Sections 341, 323, 379, 504, 506 and 34 of the Indian Penal Code and Section 3(1)(r)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Allegation against the appellants is that they abused the informant by taking his caste name and also assaulted him with Lathi and took money.

It is submitted by learned counsel for appellants that no such occurrence as alleged ever took place. 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. He further submits that there is admitted land dispute between the parties and the offence is of civil nature. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. There is inordinate delay of four days in lodging the case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. There is no specific overt act against the appellants to abuse the informant. Hence, no offence under SC/ST Act is made out against the appellants. No one has sustained injury in the occurrence. Appellants have no criminal antecedent as mentioned in para-3 of this memo of appeal.



Learned Spl. P.P. for the State opposed the prayer for bail application that there is specific allegation against the appellants to abuse the informant by taking caste name.

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 released on bail on furnishing bail bond Rs. 25,000/- (Rupees Twenty Five 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), Saran in connection with SC/ST P.S. Case No. 77 of 2020, 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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