

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.4512 of 2021**

Arising Out of PS. Case No.-167 Year-2021 Thana- EKMA District- Saran

Vikash Mahto Son of Lalan Mahto Resident of Village Ekma, P.S. Ekma,  
District Saran at Chapra, PIN CODE- 841208 (Bihar).

... .. Appellant/s

Versus

1. The State of Bihar.
2. Gynti Devi Wife of Sri Dwarika Ram Resident of Village Ekma, Near Nahar, P.S. Ekma, District Saran (Bihar).

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr. Abhishek

For the Respondent/s : Mr. Sadanand Paswan

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

3      16-05-2022                      Heard learned counsel for the appellant and learned  
Special Public Prosecutor for the State.

By order dated 21.01.2022, notice was issued to respondent no.2. The office has pointed out that the notice has been validly served upon respondent no.2, but nobody appears on her behalf.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC/ST Act') against the refusal of prayer of bail vide order dated 11.10.2021, passed by learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in connection with Ekma P.S. Case No.167 of 2021, registered under Sections 341,



323, 324, 504, 506, 354 and 34 of the Indian Penal Code and Sections 3(i)(r)(s)(w)(i)/3(2)(va) of the SC/ST Act.

The prosecution case, in brief, is that on 22.04.2021 at about 10.30 P.M., when the informant, her husband and children were sleeping, the neighbour of the informant, namely, Lalan Mahto, Mintu Mahto, Vikash Mahto (appellant), Akash Mahto, Sonu Mahto, Rajendra Kushwaha and Manish Kushwaha came at the house of the informant variously armed with sharp edged weapon. It is further alleged that Vikash Mahto assaulted her husband by means of *daab* on his head causing cut injury on his head. The husband of the informant fell on the ground. When the informant went to save her husband, Lalan Mahto caught hold her hair and threw her on the ground. Thereafter all accused persons including Mintu Mahto and Akash Mahto started assaulting the informant and her husband indiscriminately with *lathi*. Thereafter all accused persons assaulted the children of the informant also.

Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. It is submitted that there is case and counter case between the parties. The appellant has earlier lodged the case against the informant of the present case. Thereafter the



informant has filed this case against the appellant. It is further submitted that the occurrence took place on 22.04.2021, but the FIR was lodged on 28.04.2021 after delay of six days. It is further submitted that the appellant is in custody since 25.08.2021. It is also submitted that the petitioner has got no criminal antecedent as stated in paragraph-3 of the memo of appeal.

Taking into consideration the facts that there is case and counter case between the parties and the FIR was lodged after delay of six days, let appellant, above named, be released on bail on furnishing bail bond of Rs.25,000/- (rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in connection with Ekma P.S. Case No.167 of 2021.

Accordingly, the impugned order is set aside and this appeal is allowed.

**(Anjani Kumar Sharan, J.)**

Sanjay/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

