

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3466 of 2022

Arising Out of PS. Case No.-194 Year-2022 Thana- GHANSHYAMPUR District- Darbhanga

1. JAMUN MUKHIYA Son of Late Damodar Mukhiya Resident of Village - Belwara, P.S. Ghanshyampur, District - Darbhanga.
2. Indu Devi wife of Jamun Mukhiya Resident of Village - Belwara, P.S. Ghanshyampur, District - Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dilkhush Kumar Son of Upendra Paswan Resident of Village - Bishanpurghat, P.S. Ghanshyampur, District - Darbhanga.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Girish Chandra Jha, Advocate

For the Respondent/s : Mr. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

2 14-12-2022 Heard learned counsel for the appellants and learned Spl. P.P. for the State.

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 for **anticipatory bail** vide order dated 14.09.2022 in A.B.P. No. 1589 of 2022 passed by the learned 3rd Additional Sessions Judge-cum-Exclusive Judge S.C./S.T. (POA) Act, Darbhanga in connection with Ghanshyampur P.S. Case No. 194 of 2022 registered for the offences punishable under Sections 341, 342, 323, 353, 504 and 120B of the Indian Penal Code as well as Sections 3(i)(r) and Section 3(i)(s) of the SC/ST Act.



Learned counsel for the appellants submits that appellant no. 1 has antecedent of one case but was acquitted and appellant no. 2 is a person with clean antecedent and the informant alleges that Jamun called him as his nephew in drunken condition was abusing him, further when he reached the place of occurrence, the appellant and accused persons abused and his family members assaulted him and tore his uniform, Indu Devi snatched his mobile and he was saved when police came.

Learned counsel for the appellants submits that the appellants have been falsely implicated in the present case, it is next submitted allegation of assault and abuse is general and omnibus in nature, it is also submitted that no specific allegation has been alleged and even presuming what has been alleged is true without admitting for the purposes of anticipatory bail then the F.I.R. does not even remotely suggest that the occurrence was witnessed by anyone, and thus was not in public view rather the occurrence is alleged to have taken place in the house of the informant. It is also submitted that if what has been alleged is true that the informant was saved on arrival of police then definitely the police would have arrested some of the accused persons who were present at the place of occurrence as is being alleged but that is not the case in the present case, which further creates doubt whether any occurrence in the manner as alleged took place.



Learned Spl. P.P. for the State opposes the prayer for anticipatory bail of the appellants.

In view of the submissions made by the learned counsel for the appellants, the order dated 14.09.2022 in A.B.P. No. 1589 of 2022 passed by the learned 3rd Additional Sessions Judge-cum-Exclusive Judge S.C./S.T. (POA) Act, Darbhanga in connection with Ghanshyampur P.S. Case No. 194 of 2022 is hereby set aside and the appellants above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Ghanshyampur P.S. Case No. 194 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the appeal stands allowed.

(Satyavrat Verma, J)

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