

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3480 of 2022

Arising Out of PS. Case No.-189 Year-2020 Thana- KAMTAUL District- Darbhanga

1. ABHISHEK KUMAR @ BABLU Son of Lal Babu Yadav Resident of Village- Khajurwara, P.S.- Kamtaul, District- Darbhanga
2. LALA KUMAR YADAV @ LALA YADAV Son of Nand Kishore Yadav Resident of Village- Khajurwara, P.S.- Kamtaul, District- Darbhanga
3. MANISH YADAV @ MANISH KUMAR Son of Mahesh Yadav Resident of Village- Khajurwara, P.S.- Kamtaul, District- Darbhanga

... .. Appellant/s

Versus

1. The State of Bihar
2. SANTOSH KUMAR PASWAN Son of Sri Sanichar Paswan Resident of Village- Khajurwara, P.S.- Kamtaul, District- Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ratanakar Jha, Advocate

For the Respondent/s : Mr. Sadanand Paswan, 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 16.08.2022 in A.B.P. No. 1439 of 2022 passed by the learned 3rd Additional Sessions Judge-cum-Exclusive Special Judge S.C./S.T. (POA) Act, Darbhanga in connection with Kamtaul P.S. Case No. 189 of 2020 registered for the



offences punishable under Sections 147, 149, 341, 323, 354, 504 and 506 of the Indian Penal Code as well as Sections 3(i)(r)(s) of the SC/ST Act.

Learned counsel for the appellants submits that appellant no. 1 has antecedent of one case and appellant no. 2 and 3 are persons with clean antecedent and the informant alleges that he along with his aunt went to P.D.S. shop of Kanchan Kumari and demanded their food grains but she said that presently there is no grain, on protest accused persons including the appellants abused him and his aunt by taking caste name and on orders of Lal Babu, accused assaulted them with fist and slap, further Abhishek tore Saree and blouse of her aunt and made her semi-naked, further he also assaulted Om Prakash, Ram Bharose and Ran Vijay by an iron rod.

Learned counsel for the appellants submits that the appellants have been falsely implicated in the present case, it is next submitted that there is no specific allegation against petitioner no. 2 and 3, it is next submitted that earlier also, the informant had instituted a case under the SC/ST Act against father of Abhishek in which police after investigation submitted Final Form.

Learned counsel for the appellants next submits that



though there is allegation of assault against Abhishek but then from perusal of the F.I.R, it would manifest the same has not been instituted under Section 324, 326, 307 and 308 of the Indian Penal Code which amply demonstrates that the allegation as alleged has been exaggerated. It is further submitted that even the impugned order does not record about injury which amply demonstrates that no injury was caused to the alleged injured, it is further submitted that even the F.I.R does not disclose that the occurrence was witnessed by anyone when it is alleged that it had taken place near the PDS shop of Kanchan Kumari which further creates doubt with regard to veracity of the allegation as alleged.

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 16.08.2022 in A.B.P. No. 1439 of 2022 passed by the learned 3rd Additional Sessions Judge-cum-Exclusive Special Judge S.C./S.T. (POA) Act, Darbhanga in connection with Kamtaul P.S. Case No. 189 of 2020 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 Kamtaul P.S. Case No. 189 of 2020 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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