

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.354 of 2023

Arising Out of PS. Case No.-105 Year-2022 Thana- ARA MUFFSIL District- Bhojpur

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1. Himanshu Tiwary Son Of Late Om Nath Tiwary R/V- Babhanauli, P.O- Ratanpur, P.S- Ara Muffassil, Dist- Bhojpur
 2. Birendra Tiwary Son Of Shashi Nath Tiwary R/V- Babhanauli, P.O- Ratanpur, P.S- Ara Muffassil, Dist- Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Dharmendra Upadhyay Son of Late Nardeshwar Upadhyay R/V- Babhanauli, P.O- Ratanpur, P.S- Ara Muffassil, dist- Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Kunal Tiwary

For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 26-04-2023 Heard learned counsel for the appellants, learned counsel for the respondent no. 2 and learned Special Public Prosecutor 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 in short referred to as the SC/ST Act), against the refusal of prayer of anticipatory bail vide order dated 03.12.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara, in connection with Ara Muffasil P.S. Case No. 105 of 2022 registered under Sections 147, 149, 341, 323, 379, 324 and 307



of the Indian Penal Code and Sections 3(i)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the informant alleged that when he was getting his boundary wall constructed, the accused persons came and started assaulting him causing injury and also took Rs. 25,000/- and further his staff Om Prakash Paswan and Amit Ram came to his rescue, they were also attacked and abused by taking their caste name.

Learned counsel for the appellants submits that the appellants have no concern with the aforesaid occurrence. There is no allegation of slating the informant in the specific name of his caste. He submits that there is admitted land dispute between the parties, this fact is not denied by learned counsel for the respondent no. 2. Similarly situated co-accused have been enlarged on bail by a co-ordinate bench of this court vide order dated 16.11.2022 passed in Cr. Appeal (SJ) No. 3366 of 2022 and vide order dated 30.01.2023 passed in Cr. Appeal (SJ) No. 3239 of 2022. Appellants have got no antecedent as mentioned in para-3 of memo of the appeal.

Learned Spl. PP for the State as well as learned counsel for the respondent no. 2 oppose payer for bail and



submit that the appellants abused the respondent no. 2/informant by taking caste name.

Considering the facts and circumstances of the case and the fact that similarly situated co-accused have been granted bail, let 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 enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara, in connection with Ara Muffasil P.S. Case No. 105 of 2022, 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)

anand/-

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