

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.636 of 2023

Arising Out of PS. Case No.-789 Year-2018 Thana- DANAPUR District- Patna

ABHAY KUMAR Son of Mahendra Rai @ Mahendra Pd. Resident of
Village- Ashopur, P.S.- Danapur, District- Patna

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Shyam Nandan Choudhary Son of Late Shiv Nandan Choudhary Resident of
Village- Ashopur, P.S.- Danapur, District- Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Satish Chandra
For the Respondent/s	:	Mr. Binay Krishna Mr. Ram Niwas Prasad

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 16-08-2023 Heard learned counsel for the appellant, learned counsel
for the respondent no.2 and learned Special Public Prosecutor
for the State.

2. 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
28.11.2022 passed by learned Additional District Judge-III-cum-
Special Judge, SC/ST, Patna in connection with Danapur P.S
Case No.789 of 2018, registered under Sections 308, 379, 427
and other allied Sections of the Indian Penal Code and Section
3(1) (r) of the Scheduled Castes and Scheduled Tribes



(Prevention of Atrocities) Act.

3. As per the allegation, when the informant was going at *Chhath Ghat*, along with his family members, the accused persons along with the appellant assaulted him and his family members and also abused him by taking his caste name.

4. It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. There is inordinate delay of two days in lodging the case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. He further submits that similarly situated co-accused has been granted bail by a co-ordinate Bench of this Court vide order dated 21.01.2023 passed in Cr. App (SJ) No.4184 of 2021. Appellant has one criminal antecedent as mentioned in para-3 of this memo of appeal.

5. Learned Spl. PP for the State as well as learned counsel for the respondent no.2 opposed the prayer for bail.

6. In the facts and circumstances of the case as similarly



situated co-accused has been granted bail, let the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, 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 the learned Additional District Judge-III-cum-Special Judge, SC/ST, Patna in connection with Danapur P.S Case No.789 of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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