

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.903 of 2023

Arising Out of PS. Case No.-397 Year-2022 Thana- KUCHAIKOTE District- Gopalganj

1. Asharfi Sah Son Of Late Baburam Sah R/O Village- Mithua, P.S.- Kuchaikote, District- Gopalganj
2. Mintu Sah @ Mithu Sah @ Mintu Kumar Gond Son Of Asharfi Sah R/O Village- Mithua, P.S.- Kuchaikote, District- Gopalganj

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ranjeet Kumar Pandey
For the Respondent/s	:	Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 19-05-2023 Heard learned counsel for the appellants, 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, (hereinafter in short referred to as the ‘SC/ST Act’) against the refusal of prayer for bail vide order dated 09.01.2023, passed by learned A.D.J.-III-cum-Special Judge (SC/ST Act), Gopalganj in connection with Kuchaikote P.S. Case No. 397 of 2022, registered under Sections 341, 323, 324, 325, 307, 504/34 of the IPC and Sections 3(i) (r) of SC/ST Act.

Appellants are said to have abused the informant and also assaulted him.

It is submitted by learned counsel for the appellants that



the appellants are innocent and have been falsely implicated in this case. He submits that there is case and counter case in between the parties. He submits that there is no specific overt act against the appellants to abuse the informant by taking caste name. He submits that there is no allegation against the appellant no. 2 and only suspicion he has been made accused in this case. It has been alleged against the appellant no. 1 that he assaulted one Govind Baitha with lathi causing fracture to his right hand. He further submits that appellants have no criminal antecedent as stated in para-3 of this appeal.

Considering the facts and circumstances of the case and the fact that there is no specific allegation against the appellant no. 2, let the above named appellant no. 2 in the event of his 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) with two sureties of the like amount each to the satisfaction of the learned A.D.J.-III-cum-Special Judge (SC/ST Act), Gopalganj in connection with Kuchaikote P.S. Case No. 397 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

So far as appellant no. 1 is concerned, there is



specific allegation against him, I am not inclined to enlarge the appellant no. 1 on bail. Accordingly, his prayer for anticipatory bail is rejected in connection with the aforesaid case.

However, if appellant no. 1 surrenders before the learned court below within a period of six weeks from today and prays for regular bail, the same shall be considered by the learned court below on the same day without being prejudiced by this order.

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

(Anjani Kumar Sharan, J)

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