

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.891 of 2022

Arising Out of PS. Case No.-240 Year-2021 Thana- BANIAPUR District- Saran

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1. Priyanka Devi @ Priyanka Kumari W/o Rajesh Mahto Resident of Village- Kamta, Police Station- Baniyapur, District- Saran (Chapra).
 2. Sona Devi W/o Satyadeo Mahto Resident of Village- Kamta, Police Station- Baniyapur, District- Saran (Chapra).
 3. Savita Devi W/o Balindra Mahto Resident of Village- Kamta, Police Station- Baniyapur, District- Saran (Chapra).
 4. Devanti Devi @ Hevanti Devi W/o Dharmendra Mahto Resident of Village- Kamta, Police Station- Baniyapur, District- Saran (Chapra).

... .. Appellant/s

Versus

1. The State of Bihar
2. Hema Kumari D/o Dilchandra Ram Resident of Village- Kamta, Police Station- Baniyapur, District- Saran (Chapra).

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Mukesh Kumar Singh
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 12-04-2023 In spite of valid service of notice, none appears on behalf of respondent no. 2.

Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

The present memo of appeal has been filed on behalf of the appellants for grant of anticipatory bail against the order dated 17.11.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge SC/ST (POA Act), Saran at Chapra in connection with Baniyapur P.S. Case No. 240 of 2021 under



Sections 341, 323, 504/34 of the Indian Penal Code and section 3(i)(r)(s)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for anticipatory bail of the appellants was rejected.

Prosecution case in brief is that on the alleged date and time of occurrence, she-got of the accused Satyadev Mahto was grazing in the field of informant, then the younger brother of informant went to drive away the she-goat. In the meantime, all the accused persons armed with lathi began to assault his younger brother and thereafter the informant rushed to save his brother, then all the accused persons including appellants also started assaulting the informant and her brother due to which the brother of informant sustained injury on his head and the informant also sustained injury.

It is submitted on behalf of the appellants there is general and omnibus allegation. Specific allegation of assault is against co-accused Satyadeo Mahto. Moreover, FIR has been lodged after inordinate delay of 54 days without any plausible explanation No case under SC/ST Act is made out, as there is no whisper regarding abuse to the informant by calling caste name. Appellants have got clean antecedent.

Considering the aforesaid facts, this appeal is allowed.



The impugned order dated 17.11.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge SC/ST (POA Act), Saran at Chapra, is set aside.

Let the appellants above-named, in the event of their arrest/surrender before the court below within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Ist Additional Sessions Judge-cum-Special Judge SC/ST (POA) Act, Saran at Chapra in connection with Baniyapur P.S. Case No. 240 of 2021.

(Prabhat Kumar Singh, J)

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