

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1200 of 2023

Arising Out of PS. Case No.-215 Year-2022 Thana- NIMCHAKBATHANI District- Gaya

1. MADHESHWAR MAHTO @ MADHESHWAR PRASAD Son of Dahu Mahto Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
2. Jay Prakash Mahto @ Jayprakash Prasad Son of Bardho Mahto @ Vasho Mahto @ Vadho Prasad Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
3. Pramod Mahto @ Rakesh Kumar Son of Sitaram Mahto @ Sita Ram Prasad Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
4. Subodh Mahto @ Subodh Kumar Son of Sitaram Mahto @ Sita Ram Prasad Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
5. Sujit Mahto @ Suchit Kumar Son of Arjun Mahto Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
6. Lalbabu Mahto @ Brajesh Kumar Son of Jay Prakash Mahto @ Jay Prakash Prasad Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
7. Babu Shahi @ Babu Sahi @ Saurav Kumar Son of Jay Prakash Mahto @ Jay Prakash Prasad Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
8. Satyendra Mahto @ Satendra Kumar @ Satyendra Kumar Son of Bilash Mahto @ Vilash Mahto @ Ram Vilash Mahto Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
9. Ramashish Mahto @ Ramashish Prasad Son of Mahavir Mahto Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
10. Harendra Mahto @ Harendra Kumar Son of Balmiki Mahto @ Valmiki Mahto @ Balmiki Prasad Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.
11. Ravindar Mahto @ Ravindra Mahto @ Ravindra Raj Son of Madheshwar Mahto @ Madheshwar Prasad Resident of village - Katari, P.S.- Nimchak Bathani, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Shyama Devi Wife of Ranjit Paswan Resident of Village - Katari, P.S.- Nimchak Bathani, District - Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Manisha Prakash
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN



ORAL ORDER

3 05-07-2023 Heard learned counsel for the appellants and learned Special PP for the State.

Learned counsel for the appellants seeks permission to withdraw this appeal as against appellant no.1, as he has already been arrested by the police, during the pendency of the appeal.

Permission is granted.

Accordingly, this appeal as against appellant no.1 is dismissed as withdrawn.

Now, this appeal is being heard with respect to the rest of the appellants.

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 07.02.2023 passed by learned Exclusive Special Judge, SC/ST, Gaya in connection with Nimchak Bathani P.S. Case No.215 of 2022, registered under Sections 147, 149, 504, 506, 337, 379 of the Indian Penal Code and Section 3(1) (r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Allegedly, the appellants assaulted the children of informant by means of *lathi* and brick bats and also abused them by taking caste name.



It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to dirty village politics. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. There is no specific overt act against the appellants. She further submits that in the entire prosecution, it is not stated that any injured was taken to hospital for treatment which clearly speaks that none received any injury and the allegation was a mere statement. It is stated by way of supplementary affidavit, that the appellant no.5 has one criminal antecedent, except that none of the appellants have criminal antecedent as mentioned in para-3 of memo of appeal.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case as there is no specific overt act against the appellants, let the above named appellant nos.2 to 11, 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 the learned Exclusive Special Judge, SC/ST, Gaya in connection



with Nimchak Bathani P.S. Case No.215 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 partly allowed.

(Anjani Kumar Sharan, J)

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