

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2372 of 2021

Arising Out of PS. Case No.-383 Year-2020 Thana- KHIJARSARAI District- Gaya

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1. UPENDRA YADAV S/O Sukhdeo Yadav Resident of Village - Bakthar, P.S. - Khizersarai, District - Gaya.
 2. KIRAN DEVI W/O Upendra Yadav Resident of Village - Bakthar, P.S. - Khizersarai, District - Gaya.
 3. RAKESH KUMAR S/O Upendra Yadav Resident of Village - Bakthar, P.S. - Khizersarai, District - Gaya.

... .. Appellant/s

Versus

1. The state of Bihar Bihar
2. Ramishwar Chaudhary S/O Late Chhedi Chaudhary R/O Village- Bakthar, P.S- Khizer Sarai, Distt.- Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Durgesh Nandan
For the Respondent/s	:	Mrs .Usha Kumari 1
		Mr. Satya Veer

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 28-06-2023 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 25.02.2021 passed by learned Additional Exclusive Special Judge SC/ST, Gaya in connection with Khizersarai P.S Case No. 383 of 2020, registered under Sections 341, 323, 342, 308, 379,



337, 338, 504, 506/34 of the Indian Penal Code and Section 3(i) (R)/ 3 (i) W 2av of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Allegedly, the appellants and other co-accused persons assaulted the informant's side by means of several weapons due to which they got injuries. It is also alleged that the appellant no.1 namely, Upendra Yadav abused and threatened to kill the informant's side if any case would be filed.

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. Slating the informant/complainant in the name of caste is said to have been made at the house of the appellant and not in public view, hence no offence under SC/ST Act is made out against the appellants. Appellant no.1 has four criminal antecedent whereas appellant nos. 2 and 3 have no criminal antecedent, as also mentioned in para-3 of memo of appeal.

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



submitted by the learned counsel for the respondent no.2 that there is a specific allegation of abuse against the appellant no.1.

Considering the facts and circumstances of the case, I am not inclined to enlarge the appellant no.1 on bail. The prayer for grant of bail on his behalf is hereby rejected.

However, as there is general and omnibus allegation against the appellant nos.2 and 3, let the above named appellant nos.2 and 3, 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 Additional Exclusive Special Judge SC/ST, Gaya in connection with Khizersarai P.S Case No. 383 of 2020 , 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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