

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2087 of 2023

Arising Out of PS. Case No.-99 Year-2022 Thana- ANGARGHAT District- Samastipur

1. Gaurav Kumar Suman @ Arun @ Arun Kumar @ G.K.Suman S/O Late Ramprit Rai R/O Village- Supaul, P.S- Angarghat, Distt- Samastipur, At Present Resident Of Village- Desua, P.S- Ujiarpur, Distt.- Samastipur.
2. Shakti Prasad S/O Sri Ram Babu Rai R/O Village- Supaul, P.S- Angarghat, Distt- Samastipur, At Present Resident Of Village- Desua, P.S- Ujiarpur, Distt.- Samastipur.

... .. Appellants

Versus

1. The State Of Bihar
2. Mahesh Paswan S/O Late Sundeshwar Paswan R/O Village- Supaul Birnama Tola, P.S- Angarghat, Distt.- Samastipur.

... .. Respondents

Appearance :

For the Appellants	:	Mr.Lakshmindra Kumar Yadav, Advocate
For the State	:	Mr.Sadanand Paswan, Spl. Public Prosecutor
for respondent no.2		N O N E

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 22-09-2023 Heard learned counsel for the appellants and the State.

Despite valid service of notice, nobody appears for respondent no.2.

2. This appeal has been filed for setting aside order dated 28.3.2023, passed in a case registered for the offence punishable under sections 341,323, 307,504,506 of the IPC and sections 3(i)(r)(s)/3(ii)V(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby prayer for anticipatory bail of the appellants has been rejected.

3. As per the prosecution case, on 5.11.2022 at about 5 pm when informant was returning his village and reached at



the house of Rambabu Ray, appellants and other accused persons surrounded the informant and started abusing him by his caste name and assaulted him with lathi, danda, rod and pistol as a result of which he sustained head injury.

4. Learned counsel appearing for the appellants submits that the present case has been filed in retaliation of Ujjiyarpur Police Station Case No. 354 of 2022 dated 4.11.2022 filed by father of appellant no.2 against informant and others. Though there is allegation of assault, but there is no injury report on the record in support thereof. Moreover, allegation of assault and abuse by caste name is general and omnibus against these appellants and no specific overt act has been alleged against them. It is not the case of the informant/ respondent no.2 that any member of public was present on the place of occurrence at the relevant time, as such, no offence under the SC/ST Act is made out. Appellants claims clean antecedent.

5. Counsel for the State and the respondent no.2 oppose the prayer for bail.

6. Considering the aforesaid facts, this appeal is allowed and the impugned order is set aside. Let the appellants, named above, in the event of their arrest/surrender 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 Special Judge, SC/ST Act, Samastipur in Angarghat Police Station Case No. 99 of 2022.

(Prabhat Kumar Singh, J)

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