

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2094 of 2023**

Arising Out of PS. Case No.-199 Year-2022 Thana- BHANGWANPUR HAT District- Siwan

RAHUL SHARMA @ RAHUL KUMAR SHARMA S/O PANCHAM
SHARMA R/O Village- Koyri ganwa, P.S- Bhagwanpur hatt, Distt.- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Asha Devi W/O Jairam Manjhi R/O Village- Koyri ganwa, P.S- Bhagwanpur hatt, Distt.- Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arbind Kumar Singh
For the Respondent/s : Mrs. Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

3 16-08-2023 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

2. 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 11.04.2023 passed by learned 1st Additional Sessions Judge cum Special Judge, Siwan in connection with Bhagwanpur Hat P.S. Case No.199 of 2022, registered under Sections 307, 379, 354 of the Indian Penal Code and 27 of Arms Act and Section 3(1)(r)/3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



3. As per the prosecution case, the occurrence first took place at *Janmasha* where the orchestra was going on and the accused allegedly made them fled away after doing *marpit* and thereafter, the accused persons entered into the house of the informant and indulged in hurling abuses and loot-pat of ornaments and on being interference by her neighbours, they were assaulted commonly by all the accused persons by sword causing them injury.

4. It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case due to dirty village politics. The allegation of assault levelled against the appellant is not specific rather general and omnibus in nature. There is inordinate delay of four days in lodging the case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. There is no specific overt act against the appellant. He further submits that similarly situated co-accused persons have been granted anticipatory bail by this Court vide order dated 19.04.2023 passed in Cr. APP (SJ) No.1731 of 2022. Appellant has no criminal antecedent as mentioned in para-3 of memo of appeal.

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



6. In the facts and circumstances of the case as similarly situated co-accused persons have been granted bail by this Court, let the above named appellant, 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 1st Additional Sessions Judge cum Special Judge, Siwan in connection with Bhagwanpur Hat P.S. Case No.199 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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