

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2152 of 2023

Arising Out of PS. Case No.-90 Year-2022 Thana- BAHERI District- Darbhanga

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MANNU MANDAL @ MANNU KUMAR SON OF MUNESHWAR
MANDAL Resident of Village - Atahar, P.S. - Baheri, District - Darbhanga

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR, PATNA
2. SUSHILA DEVI WIFE OF DILIP RAM RESIDENT OF VILLAGE -
ATAHAR, P.S. - BAHERI, DISTRICT - DARBHANGA

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ram Jiban Pd. Singh, Appellant
For the Respondent/s : Mr.Binay Krishna, Spl. PP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 15-12-2023

I.A. No. 02 of 2023

Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

2. The aforesaid I.A. has been filed on behalf of the
appellant for condonation of delay of 61 days in filing the instant Cr.
Appeal (SJ) No. 2152 of 2023.

3. For the reasons stated in the aforesaid I.A., the
condonation of delay in filing the present Cr. Appeal (SJ) is
condoned.

4. Accordingly, the I.A. No. 02 of 2023 is allowed.

5. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)



Act (hereinafter in short referred to as the 'SC/ST Act') against the rejection of prayer for anticipatory bail of the appellant vide order dated 24.11.2022 passed by learned 3rd Additional Sessions Judge-cum-Exclusive Special Judge, SC/ST (PoA) Act, Darbhanga in connection with Baheri P.S. Case No. 90 of 2022 dated 20.03.2022 registered for the alleged offences under Sections 341, 323, 324, 354B, 379, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(i)(r)(s)(wi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, when the informant's cousin father-in-law was constructing his house on his land then the appellant and the co-accused persons armed with iron rod came and started abusing him by calling his caste name and also assaulting him. When the informant came to rescue him then the appellant disrobed the informant by pulling her *sari* and carried her to the house of Vishnu Ram and began to attempt to rape. On being protested by the informant, the appellant assaulted her with iron rod on her head causing head injury and she fell down. Thereafter, the informant was taken to the hospital for treatment.

4. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. There is a case and counter case between the parties. It is further submitted that the place of occurrence is the house of the said Vishnu Ram (informant's cousin father-in-law) and no member of public was



present at the relevant point of time of the alleged incident. Hence, no *prima facie* case is made out against the appellant under the provisions of SC/ST (PoA) Act. It is further submitted that there is swelling on the head of the informant which is said to be grievous in nature but the appellant's side also sustained injuries. It is also submitted that from the material on record, it appears that a civil dispute is converted into criminal dispute. No incriminating article has been recovered from the possession of the appellant. The appellant has no criminal antecedent as stated at para 3 of the bail petition.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for anticipatory bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 24.11.2022 passed by learned 3rd Additional Sessions Judge-cum-Exclusive Special Judge, SC/ST (PoA) Act, Darbhanga in connection with Baheri P.S. Case No. 90 of 2022, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, in the event of his arrest/ surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of the



learned 3rd Additional Sessions Judge-cum-Exclusive Special Judge,
SC/ST (PoA) Act, Darbhanga in connection with Baheri P.S. Case
No. 90 of 2022, subject to the conditions mentioned in Section
438(2) of the Code of Criminal Procedure with the further
condition :-

(i) The appellant is directed to remain
physically present before the learned
Court below on each and every date,
failing which on two consecutive dates
without reasonable cause, the
prosecution will be at liberty to move
for cancellation of his bail bond.

(Chandra Prakash Singh, J)

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