

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2163 of 2023

Arising Out of PS. Case No.-280 Year-2022 Thana- DULHIN BAZAR District- Patna

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1. KAMESHWAR BIND Son of Ram Bali Bind Resident of Village - Bharatpura, P.S.- Dulhin Bazar, District - Patna.
 2. Ramji Bind S/O Munarik Bind Resident of Village - Bharatpura, P.S.- Dulhin Bazar, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Santosh Mochi Son of Late Siyanand Mochi Resident of Village and P.O.- Bharatpura, P.S.- Dulhin Bazar, District - Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ashok Kumar Sinha, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 08-12-2023 Heard learned counsel for the appellants and learned Spl.P.P. for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes against the refusal of prayer for anticipatory bail vide order dated 15.03.2023 passed by the learned Special Judge, SC/ST (PoA) Act, Patna in connection with A.B.P. No. 9296 of 2022 arising out of Dulhin Bazar P.S. Case No. 280 of 2022 registered for the alleged offences under Sections 341, 323, 379, 504 read with Section 34 of the Indian Penal Code and Sections 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, when the informant was sitting



at Devi Asthan situated near his house then the appellants and the co-accused persons are alleged to have come and forbade him to come in Devi Asthan as he belongs to lower caste and also abused him by calling his caste name. Thereafter, the appellants and the accused persons assaulted the informant with butt of pistol, iron rod and lathi due to which he fell down on the ground then the accused persons snatched the golden locket from the neck of the informant.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this case. Learned counsel has further submitted that the scuffle took place due to playing card and the informant implicated the appellants in this case with ulterior motive. There is a case and counter case between the parties. It is further submitted that no member of public was present at the relevant point of time of the incident and hence, no offence under provisions of SC/ST Act is made out against the appellants. It is further submitted that the appellants have no concern with the alleged offence. The appellants have 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 appellants.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 15.03.2023 passed by the learned Special Judge, SC/ST (PoA) Act, Patna in connection with A.B.P.



No. 9296 of 2022 arising out of Dulhin Bazar P.S. Case No. 280 of 2022, is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, in the event of their 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)each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Court, SC/ST (POA) Act, Patna in connection with Dulhin Bazar P.S. Case No. 280 of 2022, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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