

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1782 of 2022

Arising Out of PS. Case No.-21 Year-2021 Thana- CHHAURADANO District- East
Champaran

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1. Ajay Ray @ Ajay Kumar Son of Birendra Rai Resident of Village-
Mathiyavrit, Police Station-Chhauradano, District-East Champaran at
Motihari
 2. Harendra Ray, Male, aged about 52 years, son of Deonarayan Ray @
Devnarayan Ray,
Both resident of village-Mothiyavrit, Police Station-Chhaurandano, District-
East Champaran at Motihari.

... .. Appellant/s

Versus

- (1) The State Of Bihar
(2) Saraiya Devi W/O Manoj Ram, R/O Village-Mothiyavrit, P.S.-
Chauradano, District-East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjana
For the Respondent no.1 : Mr. Binay Krishna
For the Respondent no.2 : None

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

5 01-02-2023 Notice sent through registered post on 17.12.2022

has not been received back by the registry.

Hence, the notice deemed to be received by the
informant as per the presumption under Evidence Act.

However, nobody is present on behalf of Ld. Counsel for the
Respondent No. 2/Informant despite valid service of notice.

Heard Ld. counsel for the appellants and Ld. APP
for the State.

This criminal appeal has been filed to enlarge the



appellants on bail, impugning the order dated 11.04.2022, passed by the Ld. Special Judge, Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, Motihari, East Champaran, in connection with Chhauradano Police Station Case No. 21 of 2021 dated 11.04.2021, registered for the offences punishable under Sections 323, 341, 354, 354B, 376 and 511 of the Indian Penal Code and Sections 3(1)(d) (p)(r)(s)(w)(i)(ii) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, whereby bail has been denied to the appellant.

The prosecution case as emerges from the FIR is that on 08.08.2020 at about 08:00 AM when the informant was sitting at her door, the appellants with his associates, armed with *lathi*, *Bhala* and *Pharsa* in their hand, came there and started abusing and assaulting her. When the husband, daughter and niece of the informant came to save her, the accused persons also assaulted them by taking their caste name.

Ld. counsel for the appellants submits that the appellants are innocent and have falsely been implicated in



this case. He further submits that this FIR was lodged under Section 376 and 511 on the Complaint filed before Special SC/ST Court. He also submits that the whole allegation is false and it is a counter-blast. They have falsely been implicated on account of property dispute and previous case filed by the accused/appellant side against the husband of the informant. Even the allegation is also improbable on face of it. He further submits that other co-accused have already been enlarged on bail, either anticipatory or regular, by the court below itself. He further submits that investigation in this case is complete and charge-sheet has already been submitted. However, they are not sure of the charge framed or not.

He further submits that the appellants have been languishing in jail since 06.04.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellants have no criminal antecedents.

It is also stated in paragraph no. 2 of the appeal that the appellants have earlier moved this Court for grant of anticipatory bail vide Cr. App. (SJ) 3702 of 2021.



However, Ld. Special Public Prosecutor for the State vehemently opposes the prayer of the appellants for bail.

Considering the aforesaid facts and circumstances, **the appeal is allowed**, setting aside the impugned order dated 11.04.2022, passed by Ld. Special Judge, Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, Motihari, East Champaran,, and directing the appellants to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Ld. Special Judge, Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, Motihari, East Champaran, in connection with Chhauradano Police Station Case No. 21 of 2021, **after framing of charge if not already framed** on the following conditions:

(i) The appellants will make themselves available for interrogation by a police officer/court as and when required.

(ii) The appellants will undertake that



investigation/trial will not hamper on account of their absence or non-cooperation. They must be available to the police or the court whenever their presence is required.

(iii) The appellants shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the trial court that the appellants have any criminal antecedents, Ld. trial court shall cancel the bail bonds of the appellants after hearing them and getting satisfied that the appellants have concealed their criminal antecedents despite their knowledge of the same.

(v) In case, it is brought to the notice of the trial court that statement regarding previous bail appeal is wrong, Ld. trial court shall cancel the bail bonds of the appellants.

Ld. counsel for the appellants is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the



certified copy of this order only after removal of office
objections.

(Jitendra Kumar, J)

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