

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2191 of 2023

Arising Out of PS. Case No.-1103 Year-2022 Thana- KAHALGAON District- Bhagalpur

1. Vikki Mandal @ Vickey Mandal @ Vivek Kumar Son Of Jay Prakash Mandal @ Prakash Mandal R/O Village- Satyakar Chowk Khuthari, P.S.- Kahalgaon, District- Bhagalpur
2. Renu Devi @ Ranu Devi Wife Of Jay Prakash Mandal @ Prakash Mandal R/O Village- Satyakar Chowk Khuthari, P.S.- Kahalgaon, District- Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Rajesh Paswan Son Of Late Nageshwar Paswan R/O Village- Shiv Kumari Pahar, Ward No.- 16, P.S.- Kahalgaon, District- Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Dr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. PP
For the Informant	:	Mr. Baijnath Sah, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

3 04-09-2023 Heard learned counsel for the appellants; learned Spl. PP for the State and learned counsel for the respondent No.2 / informant.

2. This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 21.02.2023 in A.B.P. No. 3030 of 2022 passed by the learned 3rd Additional Sessions Judge-cum-Special Judge SC / ST Act, Bhagalpur in connection with Kahalgaon P.S. Case



No. 1103 of 2022 registered for the offences punishable under Sections 341, 323, 427, 504, 506, 379 and 34 of the Indian Penal Code and Section 3(1)(r)(s) of the SC/ST Act.

3. As per the prosecution case, all the F.I.R. named accused persons including the appellants tried to break the wall of the disputed land of Alok Kumar Tekriwal with *lathi*, *Khanti* and one of the co-accused Jai Prakash Mandal gave filthy language to the informant who is night guard and when the informant opposed it, the co-accused persons including the appellants assaulted with fists. It is further alleged that co-accused Vickey Mandal pressed the neck of informant with intention to kill him and co-accused Renu Devi snatched the silver chain from his neck and Jai Prakash Mandal gave threat of life.

4. Learned counsel for the appellants submits that appellants are innocent and have committed no offence and the appellants have no concern with the informant. The informant has not received any injury. He further submits that the land dispute is going on between appellants and Alok Kumar Tekeriwal and the informant is the staff of the said Alok Kumar Tekeriwal who is trying to harass the appellant. The alleged occurrence has not taken place in public view and there is no



allegation against the appellants that they have abused the informant by his caste name as such provision of SC / ST Act does not get attracted. The appellants have no criminal antecedent.

5. Learned Spl. P.P. for the State and learned counsel for the informant oppose the anticipatory bail of the petitioners, fairly conceded that the main allegation is against co-accused Jay Prakash Mandal and there is no injury caused to the informant by the appellants.

6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the impugned order dated 21.02.2023 in A.B.P. No. 3030 of 2022 passed by learned 3rd Additional Sessions Judge-cum-Special Judge, SC / ST Act, Bhagalpur in connection with Kahalgaon P.S. case No. 1103 of 2022 is hereby set aside and the appellants above named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge (SC/ST Act) Bhagalpur, in connection with Kahalgaon P.S. Case No. 1103 of 2022, subject to the conditions as laid down under Section 438



(2) of the Cr.P.C.

7. Accordingly, the appeal stands allowed.

(Sunil Dutta Mishra, J)

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