

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2294 of 2023

Arising Out of PS. Case No.-72 Year-2023 Thana- AWTARNAGAR District- Saran

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1. BIRENDRA SAH @ BIJENDRA SAH @ KARI SAH Son of Late Yamuna Sah Resident of village - Manohar Vasant, P.S. - Avtarnagar, Distt. - Saran
 2. Chinta Dev Wife of Birendra Sah @ Bijendra Sah @ Kari Sah Resident of village - Manohar Vasant, P.S. - Avtarnagar, Distt. - Saran
 3. Sunil Kumar Son of Birendra Sah @ Bijendra Sah @ Kari Sah Resident of village - Manohar Vasant, P.S. - Avtarnagar, Distt. - Saran

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. Binita Kumari wife of Sanjay Ram Resident of village-Manohar Basant,P.S-Avatarnagar, District-Saran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Gajendra Kumar Singh, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl.pp

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 15-12-2023 Heard learned counsel for the appellants and learned counsel for the informant as well as 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 against the rejection of prayer for anticipatory bail vide order dated 27.04.2023 passed by the learned 3rd Additional Session Judge Cum SC/ST Judge, Saran at Chapra in A.B.P. No. 1127 of 2023 arising out of Avtar Nagar P.S. Case No. 72 of 2023 dated 14.03.2023 registered for the offence/s



punishable u/ss 341, 323, 324, 307 and 504 read with section 34 of the Indian Penal Code and section 3(i)(r)(s) 3(2) (va) of the SC/ST (POA) Act.

3. As per the prosecution case, the appellants and the co-accused persons are alleged to have abused the informant by calling her caste name and assaulted her with lathi and sword due to that she sustained injury on her head. When her Gotinis came to rescue, they also assaulted them and fled away.

4. Learned counsel for the appellants has submitted that the appellants have falsely been implicated in this case due to ulterior motive. There is case and counter case between the parties. Learned counsel has further submitted that both sides sustained injury and three persons sustained injury from the petitioner's side. As per annexure-3, the injury is stated to be simple in nature. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no specific caste name has been called by the appellants hence no case is made out under section SC/ST Act. The appellants have no criminal antecedents as stated at para 3 of the bail petition.

5. Learned counsel for the informant as well as



learned Spl. P.P. for the State has vehemently opposed the anticipatory bail petition of the appellants.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 27.04.2023 passed by the learned 3rd Additional Session Judge Cum SC/ST Judge, Saran at Chapra in A.B.P. No. 1127 of 2023 arising out of Avtar Nagar P.S. Case No. 72 of 2023, is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, in the event of their arrest or 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 the learned 3rd Additional Session Judge Cum SC/ST Judge, Saran at Chapra in A.B.P. No. 1127 of 2023 arising out of Avtar Nagar P.S. Case No. 72 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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