

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2166 of 2022**

Arising Out of PS. Case No.-188 Year-2021 Thana- MOHIUDDIN NAGAR District-
Samastipur

=====

MAHESH MAHTO S/o Late Ramashlok Mahto Resident of Village-
Kurshaha Bichla Tola, P.S.- Mohiuddin Nagar, District- Samastipur.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Anita Devi W/o Siyalal Paswan Resident of Village- Kushaha Bichla Tola,
P.S.- Mohiuddin Nagar, District- Samastipur.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Raja Ram Mishra
For the Respondent/s : Mrs. Usha Kumari 1

=====

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

3 02-03-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

Despite valid service of notice, nobody appears on behalf
of the respondent no.2.

This is an appeal under Section 14(A)(2) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act,
1989 (hereinafter in short referred to as the 'SC/ST Act') against
the refusal of prayer of anticipatory bail vide order dated
19.04.2022 passed by learned Special Judge SC/ST (POA) Act,
Samastipur in connection with Mohiuddin Nagar P.S. Case
No.188 of 2021, registered under Sections 341, 342, 323, 324,
447, 448, 307, 504, 506, 34 of the Indian Penal Code and



Section 3(1) (r) 3(1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution case, in brief, is that five named accused including the appellant started construction of a wall on the way of the informant and when she opposed the construction all the accused persons attacked on her. It is alleged that co-accused Dinesh Mahto lashed with iron rod assaulted on her head due to which she received injury. When other women of her family came to rescue her, all the accused persons assaulted them.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. There is no specific overt act against the appellant. The allegation of slating the informant levelled against the appellant is not specific rather general and omnibus in nature. Hence, no offence under SC/ST Act is made out against the appellant. There is an admitted land dispute between the parties. Appellant has no criminal antecedent as mentioned in para-3 of this memo of appeal.

Learned Spl. PP for the State opposed the prayer for bail.



In the facts and circumstances of the case, as there is no specific overt act against the appellant, let the above named appellant, in the event of his 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. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST (POA) Act, Samastipur in connection with Mohiuddin Nagar P.S. Case No.188 of 2021, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

shikha/-

U		T	
---	--	---	--

