

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2333 of 2022

Arising Out of PS. Case No.-428 Year-2021 Thana- PUPRI District- Sitamarhi

-
1. SHIVRAJ KUMAR @ SHIVRAJ SINGH RAI S/o Mahendra Rai R/o village- Awapur, P.S.- Pupari, District- Sitamarhi
 2. Jitendra Kumar @ Jitendra Kumar Rai S/o Umesh Rai R/o village- Sater, P.S.- Bokhara, Distt.- Sitamarhi (Address wrongly given in FIR)

... .. Appellant/s

Versus

1. The State of Bihar
2. Rajnandan Paswan S/o Late Baldeo Paswan R/o village- Awapur, P.S.- Pupari, District- Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Alok Kumar Jha, Advocate
For the Respondent/s : Mr. Binay Krishna, S PP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 05-07-2023 Despite issuance of notice , nobody appeared on behalf of respondent No 2.

Heard learned counsel for the appellants and the State.

The present appeal is directed against the order dated 16.06.2022, passed in a case registered for the offence punishable under Sections 147, 149, 323, 504, 506 353, 341, 332, 427/34 of the Indian Penal Code read with Sections 3 (i) (r) (s) of the SC/ST Act, whereby anticipatory bail of the appellants has been rejected.

As per the prosecution case, on the alleged date and time of occurrence informant was on duty and there was some



dispute going on near bank of Baroda. When the informant went to pacify the matter all the F.I.R named accused persons including these petitioners abused and assaulted the informant with fists and slaps and also with stick. It is further alleged that when his son, daughter-in-law and his grandson Vicky Kumar came to rescue him, they were also assaulted by all the accused persons.

It is submitted that appellants are army personnel and were on leave but they intentionally dragged in this case due to village politics. As per F.I.R., the dispute was going on among some other persons and the informant reached there later. There is general and omnibus allegation of assault against these appellants. It is further submitted that neither the appellants abused nor assaulted the informant and his family. Moreover, the injury report does not indicate even a single injury on the body. It is not the case of informant that any member of public was present at the time of the incident, as such no offence under SC/ST Act is made out. Petitioners claim clean antecedent.

Learned counsel for the state and respondent no.2 opposed the prayer for bail.

Having regard to the submissions made by the parties and taking into consideration the materials available on record,



this appeal is allowed and the impugned order dated 16.06.2022 is set aside.

Accordingly, in the event of arrest or surrender the appellant, above named, before the court below within eight weeks from today, they shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Addl. Sessions Judge cum-Spl. Judge (SC/ST Act) in A.B.P. No. 599 of 2022/ 43 of 2022, subject to the condition as laid down under Section 438 (2) of the Code Of Criminal Procedure.

(Prabhat Kumar Singh, J)

Kaushik/-

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

