

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2814 of 2023

Arising Out of PS. Case No.-19 Year-2023 Thana- SC/ST District- Sitamarhi

1. RAM SWARTH SAH @ RAM SWARTH PRASAD Son of Late Munni Lal Sah R/o village - Madhuban, Ward No.- 21, P.S.- Punaura, Dist.- Sitamarhi.
2. Nitish Kumar Son of Ram Swarth Prasad @ Ram Swarth Sah R/o village - Madhuban, Ward No.- 21, P.S.- Punaura, Dist.- Sitamarhi.
3. Ramdev Sah Son of Late Munni Lal Sah R/o village - Madhuban, Ward No.- 21, P.S.- Punaura, Dist.- Sitamarhi.
4. Hari Om Sah @ Hari Om Kumar Son of Ram Swarth Prasad @ Ram Swarth Sah R/o village - Madhuban, Ward No.- 21, P.S.- Punaura, Dist.- Sitamarhi.
5. Koili Devi @ Kewali Devi Wife of Late Munni Lal Sah R/o village - Madhuban, Ward No.- 21, P.S.- Punaura, Dist.- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar
2. Soniya Devi Wife of Meghu Ram R/o village - Madhuban, Ward No.- 21, P.S.- Punaura, Dist.- Sitamarhi.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Santosh Kumar, Advocate
For the Respondent/s : Ms. Usha Kumari 1, Spl.P.P.
For the Informant : Mr. Arjun Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 27-07-2023

1. Heard learned counsel for the appellants, learned
for the informant and learned Spl. P.P. for the State.

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 22.05.2023 in A.B.P. No. 27/2023/82/2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge



S.C./S.T. (POA) Act, Sitamarhi in connection with Sitamarhi SC/ST P.S. Case No. 19 of 2023 registered for the offences punishable under Sections 341, 323, 307, 354(B), 379, 504, 506 and 34 of the Indian Penal Code as well as Sections 3(1)(r)(s) (w)(i)(f)/ 3(2)(va) of the SC/ST Act.

3. The informant alleges that on 18.04.2023, in the morning he had gone to excavate sand from her land which was objected by the appellants on the ground that the land belongs to them and when the informant protested by saying that it is her land, they started abusing by taking her caste name and on protest, they assaulted her with leg, fist and rod, thereafter Ram Swarth Sah and Hari Om Sah pushed her down and tried to strangle her by her *dupatta*, thereafter Nitish and Ramdev tore her cloth on which she became naked, on hearing her alarm her mother-in-law and other persons came and saved her and accused persons fled away but while fleeing Koyali Devi snatched her *magalsutra* and thereafter she was taken to hospital for treatment.

4. Learned counsel for the appellants submits that appellant nos. 1 and 2 have antecedent of one case and appellant nos 3, 4 and 5 are persons with clean antecedent. Learned counsel for the appellants submits that the appellants have been



falsely implicated in the present case, it is next submitted that though the informant alleges that on alarm nearby people came but then the FIR does not disclose that who were the persons who witnessed the occurrence, it is next submitted that in order to falsely implicate the appellants the informant very wisely alleged that her mother-in-law also came, it is next submitted that though she alleged that Ram Swarth Sah and Hari Om Sah pushed her down and wrapped her neck with *dupatta* and tightened it and Nitish and Ram Dev toned her clothes making her naked but then there is no allegation of any assault committed by them, it is next submitted that injury report of the informant shows that she has abrasion on chest and lacerated wound on the body, it is further submitted that when the informant herself does not allege that she was assaulted then how such injuries were found on her body which further cast an aspersion on the case of the prosecution.

5. The learned counsel further submits that even the injury suffered is said to be simple caused by hard and blunt substance when the FIR does not even remotely suggest that she was assaulted by any of the accused by hard and blunt substance.

6. Learned Spl. P.P. for the State and learned counsel



for the informant opposed the appeal but are not in a position to rebut the submissions of the learned counsel for the appellants that the injury report does not corroborate the allegation as alleged in the FIR.

7. In view of the submissions made by the learned counsel for the appellants, the order dated 22.05.2023 in A.B.P. No. 27/2023/82/2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Sitamarhi in connection with Sitamarhi SC/ST P.S. Case No. 19 of 2023 is hereby set aside and the appellant above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Sitamarhi SC/ST P.S. Case No. 19 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

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