

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2867 of 2023

Arising Out of PS. Case No.-68 Year-2023 Thana- MAGADH UNIVERSITY District- Gaya

1. BIRJU KUMAR @ BIRJU YADAV S/O KUMAR YADAV R/O VILLAGE-MOHIUDDINPUR, PS. MAGADH UNIVERSITY, DIST. GAYA
2. SARJU KUMAR @ SARJU YADAV S/O KUMAR YADAV R/O VILLAGE- MOHIUDDINPUR, PS. MAGADH UNIVERSITY, DIST. GAYA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. DAULTI DEVI W/O BASUDEO PASWAN R/O VILLAGE-MOHIUDDINPUR, PS. MAGADH UNIVERSITY, DIST. GAYA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Shailesh Kumar
For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 04-10-2023 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

2. Though the notice was validly served upon the
respondent no.2, but nobody appear on her behalf.

3. 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 27.04.2023 passed by learned Exclusive
Special Judge, SC/ST, Gaya in connection with Magadh



University P.S. Case No. 68 of 2023 registered under Sections 448, 341, 323, 354, 504, 506/34 of the Indian Penal Code and Section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. The prosecution story, in brief, is that on 24.02.2023 at about 06:00 PM, appellant no.1 entered the house of the informant in drunken condition and assaulted the informant and her daughter with fist and slap. It is further alleged that after some time when the informant and her daughter were going to Police Station to complain against the accused person, both the appellants surrounded them and started abusing and assaulted them with fist and slap and threatened of dire consequences.

5. It is submitted by learned counsel for the appellants that the appellants are quite innocent and have committed no offence. They have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to dirty local politics. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. There is inordinate delay of seven days in lodging the case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. There is no allegation of slating the informant in the specific name of their



caste. Hence, no offence under Section SC/ST Act is made out against the appellants. The real fact is that the appellants complained against the irregularities being made by the informant (Sahayika) and Sevika of *Anganbari* Centre, Mohiuddinpur to the Lady Supervisor and CDPO upon which the show cause was issued against them and due to which the informant hatched a conspiracy and lodged the present case. Appellants have no criminal antecedent as mentioned in para-3 of memo of appeal.

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

7. In the facts and circumstances of the case, as there is no allegation of slating the informant in the specific name of her caste and there is delay in lodging the FIR, 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 bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST, Gaya in connection with Magadh University P.S. Case No. 68 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.



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

(Anjani Kumar Sharan, J)

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