

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2852 of 2023

Arising Out of PS. Case No.-1 Year-2023 Thana- SIMRA District- West Champaran

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1. Bikau Sahani S/O Sri Jaishree Sahani R/O Village- Bharwaliaya, Kachahari Tola, Ps. Semra, Dist. West Champaran
 2. Sima Devi W/O Sri Jaishree Sahani R/O Village- Bharwaliya, Kachahari Tola, Ps. Semra, Dist. West Champaran
 3. Sharda Devi W/O Sri Suresh Sahani R/O Village- Bharwaliya, Kachahari Tola, Ps. Semra, Dist. West Champaran

... .. Appellant/s

Versus

1. The State of Bihar.
2. Rajesh Sah S/O Sri Ramadhar Sah R/O Village- Bharwaliya, Kachahari Tola, Ps. Semra, Dist. West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhishek Kumar, Advocate

For the Respondent/s : Mr. Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 15-12-2023 Heard learned counsel for the appellants, learned counsel for the respondent no.2 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 in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail of the appellants vide order dated 18.05.2023 passed by the learned 1st Additional Sessions Judge-cum- Special



Judge, under SC&ST Act, West Champaran at Bettiah in connection with A.B.P. No. 1234 of 2023 (arising out of Semra P.S. F.I.R. No. 01 of 2023) registered for the alleged offences under Sections 341, 323, 354, 379, 307, 504 read with 34 of the Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, all the accused persons holding *lathi* and *danda* came to the informant's door and abused and assaulted the informant's father. On *hulla*, the informant reached his door and saw that the accused persons assaulting his father, when the informant intervened then the accused persons also assaulted him. Thereafter, he along with his father tried to flee away to save their lives, Bikau Sahani and Suresh Sahani caught his father and Jaishree Sahani assaulted his father with lathi, which caused injuries on his head and neck. It is further alleged that when the informant's mother came to save, she was assaulted and her Mangalsutra worth Rs. 20,000/- was snatched.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated



in this case. The appellants are named in the F.I.R. There is general and omnibus allegation against the appellants. Learned counsel has further submitted that there is no specific allegation against the appellants rather the specific allegation of assault is against the co-accused Jaishree Sahani. Learned counsel has further submitted that there is no allegation of hurling of caste related abuse at the informant and his family members by the appellants. It is further submitted that as per the F.I.R., no member of public was present at the relevant point of time of the alleged incident, hence, no offence under SC/ST Act is made out against the appellants. The appellant nos.1 and 2 have one criminal antecedent whereas petitioner no.3 has no criminal antecedent as stated in the para 3 of the bail petition.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no.2 have opposed the prayer for anticipatory bail of the appellants.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 18.05.2023 passed by the learned 1st Additional Sessions Judge-cum- Special Judge, under SC&ST Act, West



Champanan at Bettiah in connection with A.B.P. No. 1234 of 2023 (arising out of Semra P.S. F.I.R. No. 01 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/ surrender before the learned Court below within a period of six weeks from today, be enlarged on 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 learned 1st Additional Sessions Judge-cum- Special Judge, under SC&ST Act, West Champanan at Bettiah in connection with A.B.P. No. 1234 of 2023 (arising out of Semra P.S. F.I.R. No. 01 of 2023), subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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