

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2855 of 2023

Arising Out of PS. Case No.-49 Year-2023 Thana- HARSIDHI District- East Champaran

1. Shambhu Singh Son Of Late Rameshwar Singh Resident Of Village -LAUKARIYA, Po And Ps Harsidhi, Distt- East Champaran
2. Shalu Kumari @ Shaloo Kumari Daughter Of Mukesh Singh Resident Of Village -LAUKARIYA, Po And Ps Harsidhi, Distt- East Champaran
3. Renu Devi Wife Of Mukesh Singh Resident Of Village -LAUKARIYA, Po And Ps Harsidhi, Distt- East Champaran
4. Goldi Kumari Daughter Of Mukesh Singh Resident Of Village -LAUKARIYA, Po And Ps Harsidhi, Distt- East Champaran
5. Akhilesh Singh Son Of Late Nagina Singh Resident Of Village -LAUKARIYA, Po And Ps Harsidhi, Distt- East Champaran
6. Mina Devi Wife Of Narad Singh Resident Of Village -LAUKARIYA, Po And Ps Harsidhi, Distt- East Champaran

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. Mira Devi Wife Of Punyadeo Ram Resident Of Village -laukariya, Po And Ps Harsidhi, Distt- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Pravin Kumar, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 08-12-2023 Heard learned counsel for the appellants 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 against the refusal of prayer for anticipatory bail vide order dated 03.06.2023 passed by the learned Special Judge, SC/ST Act, East Champaran, Motihari in connection with Harsidhi P.S. Case No. 49 of 2023 registered for the



alleged offences under Sections 341, 323, 354B, 379, 427, 504, 506 read with Section 34 of the Indian Penal Code and u/s 3/4 of the Prevention of Witch Craft (Daain) Act and Sections 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes Act.

3. As per prosecution case, when the informant was coming to her house after starting government's Nal Jal, then the appellants and the co-accused persons are alleged to have abused the informant by calling her caste name and assaulted her by legs and shoes. The co-accused Pankaj Kumar assaulted the informant with iron rod. The appellants Mina Devi and Goldi Kumari snatched gold earring of Rs. 30,000/- and Mangalsutra of Rs. 50,000/- from the informant. The appellants Shambhu Singh and Akhilesh Singh and the co-accused Pankaj Kumar pushed the informant on the ground and disrobed her.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this case. Learned counsel has further submitted that the occurrence took place on 17.01.2023 but the present case was lodged on 19.01.2023 and there is no explanation for this delay. There is general and omnibus allegation against the appellants. It is further submitted that no member of public was present at the relevant point of time of the incident and hence, no offence under provisions of SC/ST Act is made out against the appellants. Learned counsel has further submitted that there is no eye witness to the alleged offence. The



appellants have no criminal antecedent except the appellant no. 5 and 6 have one criminal antecedent as stated at 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 as well as the fact that no case is made out against the appellants under the SC/ST Act, the impugned order dated 03.06.2023 passed by the learned Special Judge, SC/ST Act, East Champaran, Motihari in connection with Harsidhi P.S. Case No. 49 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 anticipatory 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 Special Judge, SC/ST Act, East Champaran, Motihari in connection with Harsidhi P.S. Case No. 49 of 2023, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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