

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3061 of 2023

Arising Out of PS. Case No.-165 Year-2023 Thana- CHHATAUNI District- East Champaran

1. Rakesh Sharma S/O Asharfi Sharma R/O Village- Bariyarpur, Ps. Chhatauni, Dist. East Champaran
2. Pramod Sharma S/O Asharfi Sharma R/O Village- Bariyarpur, Ps. Chhatauni, Dist. East Champaran

... .. Appellant/s

Versus

1. The State of Bihar.
2. Lila Devi W/O Ramdev Paswan R/O Village- Naya Bajar Kesariya, Ps. Kesariya, Dist. East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Abhishek Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.P.P.
For the Informant	:	None.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 15-12-2023 Heard learned counsel for the appellants and learned Spl.P.P. for the State but none appeared on behalf of the informant.

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 02.06.2023 passed by the learned Special Judge, SC/ST (POA) Act, East Champaran at Motihari in connection with A.B.P. No. 1719 of 2023 (arising



out of Chhatauni P.S. Case No. 165 of 2023) registered for the alleged offences under Sections 341, 323, 379, 354B, 387, 504 and 506 of the Indian Penal Code and Sections 3(i)(g)(r)(s)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the accused persons with intention to grab the paternal property of the informant threw garbage on the informant's land. When the informant asked about it then all the accused persons abused her by calling her caste name and on protest the appellant no.1 Rakesh Sharma tore her blouse and the appellant no.2 Promod Sharma gagged her mouth and both the appellants assaulted her with fists, legs and shoes. The appellants no.2 snatched Rs. 2200/- from her blouse and demanded Rs. 5 lacs as ransom. When the witness Meera Devi came to save her, the appellants caught her with the bad intention and assaulted her and snatched gold chain worth Rs. 75,000/-.

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. It is further submitted that the injury is simple in nature. Learned



counsel has 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. It is further submitted that there is a delay 11 days in filing the case without any satisfactory explanation for the said delay. It is further submitted that in fact no such occurrence as narrated in the F.I.R. has ever taken place and only with a view to harass the appellants, the present case appears to have been brought in existence with false and concocted story. Learned counsel has further submitted that in fact ancestor of the informant executed sale-deed in favour of Brahmdeo Prasad Sahu @ Brahmdeo Sahand and he has executed sale-deed in favor of Poonam Devi, the wife of the appellant no.1 and son of the appellant no.2, thus, informant has no right and title over the said land. The appellant no.1 has one whereas petitioner no.2 has no criminal antecedent as stated in the para 3 of the bail petition.

5. Learned Spl. P.P. for the State has 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 u/s



SC/ST Act is made out against the appellants, the impugned order dated 02.06.2023 passed by the learned Special Judge, SC/ST (POA) Act, East Champaran at Motihari in connection with A.B.P. No. 1719 of 2023 (arising out of Chhatauni P.S. Case No. 165 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 Special Judge, SC/ST (POA) Act, East Champaran at Motihari in connection with A.B.P. No. 1719 of 2023 (arising out of Chhatauni P.S. Case No. 165 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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