

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3051 of 2023

Arising Out of PS. Case No.-172 Year-2022 Thana- RAHIKA District- Madhubani

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1. Md. Aadil Son Of Md. Jeelani Resident Of Village- Ijra, P.S-. Rahika, District- Madhubani
 2. Md. Dilshad Son Of Md. Jeelani Resident Of Village- Ijra, P.S-. Rahika, District- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar.
2. Ram Prakash Paswan Son Of Late Rajendra Paswan Resident Of Village- Rajaura, Ps- Raiyam, Distt- Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ashok Kumar, Advocate
For the Respondent/s	:	Mr. Usha Kumari 1, Spl.P.P.
For the Informant	:	Mr. Ram Prakash Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 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 10.05.2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani in connection with A.B.P. No. 808 of



2023 (arising out of Rahika P.S. Case No. 172 of 2022) registered for the alleged offences under Sections 341, 323, 324, 325, 307, 354B, 379, 384, 385, 504, 506 read with 34 of the Indian Penal Code and Sections 3(i)(r)(s)(wi)(wii), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the F.I.R. named accused persons and 3-4 unknown persons surrounded and started abusing by calling his caste name. It is further alleged that the co-accused Md. Arman hit on his head with iron rod due to which he sustained injury. It is further alleged that when his family members came to rescue, they demanded Rs. 20 lacs and on denial they assaulted informant's wife and disrobed her and also snatched *Mangalsutra*.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this case. The appellants are not named in the F.I.R. There is general and omnibus allegation against the appellants. Learned counsel further submitted that there no specific allegation against the appellants rather the specific



allegation of assault is against the co-accused Md. Arman. It is further submitted that there is a delay of 7 days in lodging the F.I.R. 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 appellants have 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 as well as the fact that no case is made out against the appellants, the impugned order dated 10.05.2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani in connection with A.B.P. No. 808 of 2023 (arising out of Rahika P.S. Case No. 172 of 2022) registered for the alleged offences under



Sections 341, 323, 324, 325, 307, 354B, 379, 384, 385, 504, 506 read with 34 of the Indian Penal Code and Sections 3(i)(r)(s)(wi)(wii), 3(2)(va), 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, Madhubani in connection with A.B.P. No. 808 of 2023 (arising out of Rahika P.S. Case No. 172 of 2022) registered for the alleged offences under Sections 341, 323, 324, 325, 307, 354B, 379, 384, 385, 504, 506 read with 34 of the Indian Penal Code and Sections 3(i)(r)(s)(wi)(wii), 3(2)(va), subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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