

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2728 of 2022

Arising Out of PS. Case No.-43 Year-2022 Thana- DALSINGHSARAI District- Samastipur

1. NITISH KUMAR Son of Late Shivesh Kumar Choudhary @ Jawahar Choudhary R/o village - Ashinchak, P.S. - Dalsinghsarai, Dist.- Samastipur.
2. Satish Kumar @ Chhatish Kumar Son of Rakesh Roy R/o village - Ashinchak, P.S. - Dalsinghsarai, Dist.- Samastipur.
3. Avinash Kumar @ Avinash Kumar Choudhary Son of Late Shivesh Kumar Choudhary @ Jawahar Choudhary R/o village - Ashinchak, P.S. - Dalsinghsarai, Dist.- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Usha Devi Wife of Rajesh Paswan R/o village - Ashinchak, Ward No.- 11 P.S. - Dalsinghsarai, Dist.- Samastipur.

... .. Respondent/s

Appearance :

For the Appellants	:	Mr.Dilip Kumar Roy,Advocate
For the State	:	Mr.Sadanand Paswan,Spl.P.P.
For Respondent no. 2	:	None

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 29-03-2023 Heard learned counsel for the appellant and learned Special P.P. for the State. Nobody appears on behalf of respondent no. 2.

The present appeal has been filed against order dated 16.07.2022 passed by learned Special Judge, SC/ST (POA) Act, Samastipur in Dalsinghsarai P.S. Case No. 43 of 2022 registered for the offence punishable under Sections 447, 341, 323, 504, 379/34 of the Indian Penal Code and Section 3(1)(r)(s) / 3(2) (va) of the SC/ST (POA) Act, whereby the prayer for anticipatory bail of appellants was rejected.



It is alleged that all the F.I.R. named accused persons including these appellants armed with *lathi*, *danda* came at the cattle house of the informant, abused her by caste name and also snatched gold chain from the neck of the informant and her husband.

Learned counsel for the appellants submits that the encroachment of public road by the informant was the genesis of occurrence. As a matter of fact, these appellants made a complaint to the Circle Officer about the encroachment made by the informant and others as a result of which scuffle took place. Injury sustained by the informant is simple in nature. F.I.R. has been lodged after seven days of the alleged occurrence. It is not the case of the informant that there was any member of the public was present at the time of occurrence and as such, no case under the SC/ST Act is made out. Appellants have got clean antecedent.

Learned Special P.P. vehemently opposes the appeal.

Considering the aforesaid facts and circumstances, the impugned order dated 16.07.2022, so far as these appellants are concerned, is, hereby, set aside and appeal is allowed.

Accordingly, in the event of arrest or surrender within a period of six weeks from today, let the above-named



appellants be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (POA) Act, Samastipur in connection with Dalsinghsarai P.S. Case No. 43 of 2022.

(Prabhat Kumar Singh, J)

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