

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2792 of 2022

Arising Out of PS. Case No.-64 Year-2022 Thana- KHUTAUNA District- Madhubani

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1. PUNAM DEVI @ PUNAM KUMARI Wife of Naresh Mahto @ Amresh Mahto @ Amresh Kumar R/V- Thalhi Barail, P.S- Babubarhi, Dist- Madhubani
 2. Naresh Mahto @ Amresh Mahto @ Amresh Kumar Son of Basdev Mahto R/V- Thalhi Barail, P.S- Babubarhi, Dist- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Bhulur Devi Wife of Uttim Lal Ram R/V- Khutauna Navtoli, PS- Khutauna, Dist- Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Jha
For the Respondent/s : Mrs. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 08-02-2023 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

A supplementary affidavit is filed by the learned counsel for the appellants and in para-2 of the said affidavit it is stated that the notice has been received by the daughter of the informant and both the respondent no.2 and her daughter are residing together.

As such, notice shall be treated validly served upon the respondent no.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 of anticipatory bail vide order dated 26.07.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Madhubani arising out of Khutauna P.S. Case no.64 of 2022, registered under Sections 341, 323, 504, 34 of the Indian Penal Code and Section 3(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The allegation against the appellants is that they have assaulted the informant's side and also abused them side by taking caste name.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to dirty village politics. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. Though there is specific allegation against the appellant no.1 to abuse the informant/complainant in the name of caste but the said occurrence is said to have been made at the house of the appellant and not in public view, hence no offence under SC/ST Act is made out against the appellants. There is inordinate delay of more than ten days in lodging the case without assigning any



plausible explanation for the said delay which creates serious doubt about the prosecution case. He further submits that so far the allegation of assault is concern, all the injuries are of simple nature caused by hard and blunt substance. Appellants have no criminal antecedent as mentioned in para-3 of memo of appeal.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the above named appellants, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Madhubani arising out of Khutauna P.S. Case no.64 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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