

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3712 of 2023

Arising Out of PS. Case No.-8 Year-2023 Thana- SC/ST District- East Champaran

1. SAREEF MIYAN@MD. SAREEF SON OF LATE NATHU MIYAN
RESIDENT OF VILLAGE- JANERWA, PS- BANJARIA, DISTT- EAST
CHAMPARAN AT MOTIHARI
2. IMAM MIYAN @ IMAM HASSAN SON OF SAREEF MIYAN @ MD.
SAREEF RESIDENT OF VILLAGE- JANERWA, PS- BANJARIA, DISTT-
EAST CHAMPARAN AT MOTIHARI
3. SADAM MIYAN @ SADDAM HUSSAIN SON OF SAREEF MIYAN @
MD. SAREEF RESIDENT OF VILLAGE- JANERWA, PS- BANJARIA,
DISTT- EAST CHAMPARAN AT MOTIHARI
4. EKBAL MIYAN @ EKLAKH HUSSAIN SON OF SAREEF MIYAN @
MD. SAREEF RESIDENT OF VILLAGE- JANERWA, PS- BANJARIA,
DISTT- EAST CHAMPARAN AT MOTIHARI
5. ESFAQUE MIYAN @ ASHFAK SON OF SAREEF MIYAN @ MD.
SAREEF RESIDENT OF VILLAGE- JANERWA, PS- BANJARIA, DISTT-
EAST CHAMPARAN AT MOTIHARI

... ... Appellant/s

Versus

1. The State of Bihar
2. MINA DEVI SON OF KUAR RAM RESIDENT OF VILLAGE-
JANERWA, PS- BANJARIA, DISTT- EAST CHAMPARAN AT
MOTIHARI

... ... Respondent/s

Appearance :

For the Appellant/s : Mr.Anil Kumar, Adv.
For the Respondent/s : Mrs.Usha Kumari 1, Spl.PP.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 22-11-2023 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

2. Learned Spl.PP. for the State submits that vide order
dated 20.09.2023, she informed the informant to appear in the
present appeal through her counsel, but nobody appears on her
behalf.

3. 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 03.07.2023 passed by learned Special Judge (SC/ST Act), Motihari, East Champaran in connection with SC/ST P.S. Case No. 8 of 2023 registered under Sections 147, 341, 323, 324, 354, 379, 504 of the Indian Penal Code and Section 3(i)(r)(s)/ w(i)/ 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. The allegation against the accused persons including the appellants is that they armed with deadly weapons came at the informant's land and began to construct house. On protest, they abused her by taking her caste name and spat on her body. Thereafter, appellant no.1 pulled her *saree* due to which she became half naked. On hearing alarm, when her husband and her son came there to save her, they were also assaulted brutally.

5. It is submitted by learned counsel for the appellants that the appellants are quite innocent and have committed no offence. They have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to ulterior motive. The allegation of assault and abuse levelled against the appellants is not specific rather general and omnibus in nature. There is inordinate delay of about two months in lodging the case without



assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. Appellants have no criminal antecedent as mentioned in para-3 of memo of appeal.

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

7. In the facts and circumstances of the case, as there is delay of two months in lodging the FIR, 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 Special Judge (SC/ST Act), Motihari, East Champaran in connection with SC/ST P.S. Case No. 8 of 2023 , subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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