

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3830 of 2023

Arising Out of PS. Case No.-246 Year-2023 Thana- CHIRAIYA District- East Champaran

1. BHULAN RAI S/o- LATE ASHARFI RAI Village- Parei Ps- Shikarganj Dist- East Champaran
2. Jawahir Rai son of Late Asharfi Rai Village- Parei Ps- Shikarganj Dist- East Champaran
3. Shyamal Rai son of Gagandeo Rai Village- Parei Ps- Shikarganj Dist- East Champaran

... .. Appellant/s

Versus

1. The State of Bihar.
2. Basudeo Paswan son of Late Dukha Paswan Village- Parei Ps- Shikarganj Dist- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhishek Kumar, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 01-12-2023 Heard learned counsel for the appellants 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 vide order dated 18.07.2023 passed by the learned Special Judge, SC/ST (POA) Act, East Champaran at Motihari in connection with A.B.P. No. 3105 of 2023



(arising out of Chiraiya (Shikarganj) P.S. Case No. 246 of 2023) dated 24.05.2023 registered for the alleged offences under Sections 341, 323, 307, 354B, 379, 504, 436 read with 34 of the Indian Penal Code and Sections 3(i)(r)(s)(w) (1), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the appellants along with the co-accused persons came to the door of the informant and abused by calling his caste name and assaulted with *lathi*, *fatta*, iron rod, fists and slaps. The accused Ajay Rai @ Ajay Kumar assaulted on the head of Surji Devi with iron rod whereas the accused, Amod Kumar tore the blouse of Rima Devi. It is further alleged that all the accused persons set the informant's house on fire due to which all the articles kept in the house were burnt. It is further alleged that accused Shyamal Rai snatched *Mangalsutra* from Nilam Devi.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this case. There is general and omnibus allegation against the appellants. Learned counsel has



further submitted that there is no specific over act against the appellants, rather the specific allegation of assault is against the co-accused Ajay Rai @ Ajay Kumar, who is said to have assaulted on the head of Surji Devi by means of iron-rod. It is further submitted that there is land dispute between the parties. 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 incident. Hence, the offence is not committed in the public view. It is further submitted that no specific allegation of abuse against the appellants. Hence, no offence under provisions of SC/ST Act is made out against the appellants. The appellant no.3 has no criminal antecedent whereas the appellant nos. 1 and 2 have three criminal antecedents as stated in 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



18.07.2023 passed by the learned Special Judge, SC/ST (POA) Act, East Champaran at Motihari in connection with A.B.P. No. 3105 of 2023 (arising out of Chiraiya (Shikarganj) P.S. Case No. 246 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, Motihari in connection with A.B.P. No. 3105 of 2023 arising out of Chiraiya (Shikarganj) P.S. Case No. 246 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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