

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4169 of 2022

Arising Out of PS. Case No.-85 Year-2019 Thana- MADHEPUR District- Madhubani

1. Shiv Ji Mukhiya @ Shiv Kumar Mukhiya S/O Janak Mukhiya R/V- Banki, P.S.- Madhepur, District- Madhubani
2. Ayodhi Mukhiya S/O Bauku Mukhiya R/V- Banki, P.S.- Madhepur, District- Madhubani
3. Reena Devi W/O Shrawan Mukhiya R/V- Banki, P.S.- Madhepur, District- Madhubani

... .. Appellants/s

Versus

1. The State of Bihar
2. Samtoliya Devi W/o Manoj Chaupal R/v- Banki, P.S.- Madhepur, District- Madhubani

... .. Respondent/s

Appearance :

For the appellants/s	:	Ms. Minakshi Kumari, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, Spl. PP
For the Informant	:	Mr. Sanjay Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 12-07-2023 Heard learned counsel for the appellants, learned counsel for the informant and learned Spl. P.P. for the State.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for **anticipatory bail** *vide* order dated 27.09.2022 in A.B.P. No. 1418 of 2022 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Madhubani in connection with Madhepur P.S. Case No. 85 of 2019 registered for the offences punishable under Sections 341, 323, 448, 379, 354(B), 504, 506



and 34 of the Indian Penal Code as well as Sections 3(1)(r)(s) and 3(2)(va) of the SC/ST Act.

Learned counsel for the appellants submits that the appellants are persons with clean antecedent, appellant no.3 is a woman and the informant alleges that on 23.06.2019 at 7:00 am she was in her house along with her mother-in-law and when her mother-in-law objected consuming of *ganja* by Rajkumar, Shiv, Ayodhi and Agni in front of her house, they started abusing her, further Rajkumar abused and assaulted her mother-in-law by *lathi*, brick and fist on which she fell, thereafter Shiv pulled her *saree* and when her father-in-law came to save her, he was assaulted and injured, further one of the co-accused took golden chain and the wife of Sharman took out Rs. 16,000/-.

Learned counsel for the appellants submits that the appellants have been falsely implicated in the present case, it is next submitted that from bare perusal of the allegations as alleged in the FIR it would manifest that no specific allegation of assault is alleged against the appellants and as far as taking of Rs. 16,000/- is alleged, the same is ornamental in nature, it is further submitted that even presuming what has been alleged is true without admitting then the entire occurrence took place at the house of the informant and thus was not in public view as such no offence under the SC/ST Act is made out, it is further



submitted that the FIR does not even remotely suggest that the occurrence was witnessed by any other witness apart from the family members, which further casts aspersion on the case of the prosecution.

Learned Spl. P.P. for the State and the learned counsel for the informant oppose the prayer for anticipatory bail of the appellants and the learned counsel for the informant submits that cognizance has been taken on 28.08.2022 after the police submitted charge-sheet after investigation as such submits that the present criminal appeal is not maintainable.

Considering the submissions made by the learned counsel for the informant, the Court is not persuaded to grant privilege of anticipatory bail to the appellants as cognizance has been taken.

However, in the event if the appellants surrender before the learned trial court on or before 09.08.2023, the learned trial court shall dispose of the case on the same day keeping in mind the observations recorded in the order herein above.

(Satyavrat Verma, J)

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