

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.37 of 2023

Arising Out of PS. Case No.-397 Year-2022 Thana- KUCHAIKOTE District- Gopalganj

1. Gandhi Sah Son Of Late Baburam Sah R/O Vill.- Mithua, P.S.- Kuchaikote, Distt.- Gopalganj
2. Santosh Sah Son Of Asharfi Sah R/O Vill.- Mithua, P.S.- Kuchaikote, Distt.- Gopalganj
3. Ashok Sah Son Of Asharfi Sah R/O Vill.- Mithua, P.S.- Kuchaikote, Distt.- Gopalganj

... .. Appellant/s

Versus

1. The State of Bihar
2. Chandeshwar Baitha Late Jatan Baitha Resident of Village- Mithua, P.S.- Kuchaikote, District- Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ranjeet Kumar Pandey, Advocate
	:	Mr. Rajesh Kumar, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, APP
For the Opposite party	:	Mr. Yogendra Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 13-04-2023

Heard the parties.

The instant criminal appeal has been filed under Section 14(A)(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, against the order dated 14.11.2022 passed by the Court of learned Additional Sessions Judge-III-cum-Special Judge, SC/ST, Gopalganj in connection with Kuchaikote P.S. Case No.397 of 2022 registered for the offences punishable under Sections 341, 323, 324, 325, 307 and 504/34 of the Indian Penal Code and Section 3(i)(r) of the



SC/ST Act by which the appellants' prayer for bail was rejected.

The main submissions advanced by learned counsel for the appellants are that there is a case and counter case in between both the parties, in the FIR of the instant matter ten persons have been named including the appellants, against appellant Nos.2 and 3 there is no allegation except their names in the FIR, though against the appellant No.1 namely, Gandhi Sah, there is specific allegation of having assaulted the informant's son namely Gautam Baitha but on account of that assault the informant's son sustained injuries on his non-vital part of his body, at the time of commission of alleged occurrence a free fight took place in which appellant No.1, his wife and some other sustained injuries and the fardbeyan of wife of appellant No.1 was recorded at hospital and in this regard FIR has been lodged. Further submission is that all the appellants have fair and clean antecedent and appellant No.1 has been languishing in jail since 19.10.2022 and appellant Nos.2 and 3 have been languishing in jail since 11.11.2022 and they belong to ST category, hence the alleged offence of SC/ST Act in which the FIR has been registered is not made out against them.

Learned counsel for the Respondent No.2 has



vehemently opposed this appeal and submitted that the informant is a ward member and the accused persons including the appellants badly assaulted the family members of the informant in which seven persons sustained grievous injuries.

Considering the above submissions and mainly the nature of allegation appearing against the appellants and also the facts that in between both the parties there is a case and counter case and some persons from the appellants' side also sustained injuries and the appellants have fair and clean antecedent, in the opinion of this Court it will be proper to enlarge the appellants on bail. Accordingly, the order impugned is hereby set aside and the appellants above-named are directed to be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Kuchaikote P.S. Case No.397 of 2022.

Accordingly, the instant appeal stands allowed.

(Shailendra Singh, J)

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