

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.483 of 2024

Arising Out of PS. Case No.-60 Year-2023 Thana- SC/ST District- Gopalganj

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1. Govinda Tiwari Son Of Ramawadh Tiwari Resident Of Village- Karkataha, Ps- Kateya, Distt- Gopalganj
 2. Kamleshwar Tiwari Son Of Late Thakur Tiwari Resident Of Village- Karkataha, Ps- Kateya, Distt- Gopalganj
 3. Anup Mishra @ Anup Kumar Misra Son Of Baidyanath Mishra Resident Of Village- Musahari , Ps- Kateya, Distt- Gopalganj

... .. Appellant/s

Versus

1. The State of Bihar
2. Umesh Ram Son Of Motichand Ram Resident Of Village- Karkataha, Ps- Kateya, Distt- Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vyas Kumar Mishra, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 19-09-2024 Despite valid service of notice, none appears on behalf of the respondent No. 2.

2. Heard learned counsel for the appellants and State.

3. This appeal has been filed against the order dated 13.12.2023 passed by learned Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST, Gopalganj in connection with A.B.P. No. 3179 of 2023 arising out of Gopalganj SC/ST P.S. Case No. 60 of 2023, registered under Sections 427, 341, 323, 325, 354, 504, 506/34 of the Indian Penal Code and Sections 3(i)(r)(s), 3(2)(va) of Scheduled Castes and Scheduled



Tribes (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of appellants has been rejected.

4. Prosecution case, in brief, is that on the alleged date and time, when informant along with his family members was making ridge in his field, all the F.I.R. named accused persons including 4-5 unknown persons came there and abused informant by caste name and on protest, accused persons assaulted him with iron rod as a result of which informant sustained injury.

5. Learned counsel for the appellants submits that due to land dispute between the parties, an occurrence of *maar-peet* took place in which both sides sustained injuries. Allegation of assault and abuse is general and omnibus. Case and counter case. Appellant No. 2 has filed Title Suit No. 413 of 2015 against father of informant which is pending before the court below. F.I.R. does not reveal presence of any member of public when the alleged incident occurred, as such, no offence under SC/ST Act is made out against appellants. Appellants claim clean antecedent.

6. Learned Spl. Public Prosecutor for the State vehemently opposed the bail application.

7. Considering the aforesaid facts, let the appellants,



as named above, in the event of their arrest/surrender within a period of eight weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST, Gopalganj in connection with A.B.P. No. 3179 of 2023 arising out of Gopalganj SC/ST P.S. Case No. 60 of 2023.

8. Accordingly, this criminal appeal is allowed and impugned order dated 13.12.2023 is set aside with respect to these appellants only.

(Prabhat Kumar Singh, J)

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