

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.429 of 2024

Arising Out of PS. Case No.-215 Year-2023 Thana- BIHARIGANJ District- Madhepura

Shambhu Yadav @ Shambhu Prasad Yadav S/O Koko Yadav Vr/O Village-
Rahua (Chhoti Rahua), Rahua Urf @ Harpur Hingo Rahua, Ward No.-4, P.S-
Bihariganj, Distt.- Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar
2. Beachni Devi W/O Bishun Deo Rishi Deo R/O Village- Rahua, P.S-
Bihariganj, Distt.- Madhepura.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Buddhi Lal Yadav, Adv. Mr. Shekhar Kumar Singh, Adv.
For the State	:	Ms.Usha Kumari 1, SPP
For the O.P. No.2	:	Mr. Mritunjay Kumar, Adv.

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 16-05-2024 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and learned counsel for
the O.P. No.2. Perused the case diary.

2. The instant appeal has been filed by the appellant
against the order dated 02.01.2024 passed by learned Additional
District & Sessions Judge 1st cum Special Judge, SC/ST Act,
Madhepura whereby the prayer for bail of the appellant in
connection with Bihariganj P.S. Case No. 215 of 2023 under
Sections 323, 341, 324, 379, 504, 506, 354, 325, 307 of the
Indian Penal Code and Section 3(i)(r)(s) of the SC/ST Act, was
rejected.



3. As per prosecution case, the allegation against the accused persons including the appellant is of brutally assaulting the Informant and her family members by means of Lathi, Danda, iron rod, Dabiya etc. due to which they sustained grievous injury on their bodies. It is specifically alleged that the appellant along with co-accused Kundan Kumar and Paplesh Yadav caught hold the hair of the Informant and, thereafter, all the three accused persons torn the *Saree* and blouse of the Informant due to which she became naked.

4. Learned counsel for the appellant submits that the appellant is innocent and has committed no offence as alleged in the F.I.R. and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. There is a land dispute between the parties. There is no specific allegation of assault against the appellant rather the same is general and omnibus in nature. The allegation against the appellant along with co-accused Kundan Kumar and Paplesh Yadav is that they caught hold the hair of the Informant and, thereafter, all the three accused persons torn the *Saree* and blouse of the Informant due to which she became naked. There is also no specific allegation of abusing the Informant in her caste name. Hence, no offence under the provisions of SC/ST Act is made out against



him. The appellant has no intention to disgrace the image of the informant in public view. He further submits that as per injury report of the injured persons, the injury is simple in nature and caused by hard and blunt substance. The appellant is in custody since 12.11.2023 and has no criminal antecedent. Charge-sheet has been submitted in this case.

5. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the appellant, submitting that the allegation made against the appellant is serious in nature. Charge-sheet has been submitted against the appellant under Sections 341, 323, 324, 307, 354(A), 504, 506 of the Indian Penal Code and Section 3(i)(r)(s)(w)/(2) (va) of the SC/ST Act,

6. Considering the aforesaid facts and circumstances of the case, there being no specific allegation against the appellant, nature of injuries which are simple and caused by hard and blunt substance and the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 02.01.2024 passed by learned Additional District & Sessions Judge 1st cum Special Judge, SC/ST Act, Madhepura is hereby set aside.

7. Let the appellant, abovenamed, be released on bail



on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Bihariganj P.S. Case No. 215 of 2023.

(Rudra Prakash Mishra, J)

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