

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.501 of 2024

Arising Out of PS. Case No.-230 Year-2023 Thana- KHANPURA District- Samastipur

1. Manju Devi Wife Of Fuldeo Mahto @ Kuldeo Mahto @ Phooldev Prasad @ Kuldeep Mahto R/O-Dekari, P.S.-KHANPUR, Distt.-SAMASTIPUR
2. Rakesh Kumar @ Rakesh Kumar Mahto Son Of Fuldeo Mahto @ Kuldeo Mahto @ Phooldev Prasad @ Kuldeep Mahto R/O-Dekari, P.S.-KHANPUR, Distt.-SAMASTIPUR

... .. Appellant/s

Versus

1. The State of Bihar
2. Rajgir Ram Son Of Late Faguni Ram R/O-Masina Sobhan (maina), P.S.-khanpur, Distt.-samastipur

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 19-09-2024 Heard learned counsel for the parties.

2. This appeal has been filed against the order dated 18.12.2023 passed by learned Special Judge, SC/ST Act, Samastipur in connection with A.B.P. No. 4031 of 2023 arising out of Khanpur P.S. Case No. 230 of 2023, registered under Sections 147, 149, 341, 323, 379, 354, 504, 506 of the Indian Penal Code and Section 3(i)(r)(s)(w), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of appellants has been rejected.



3. As per F.I.R., informant received 3 *Katha* land from Bihar Bhudan Yagya Committee but all the F.I.R. named accused persons including these appellants tried to dispossess informant from the said land and when informant went to his field for agricultural work, all the accused persons assaulted him and abused him and his family members by caste name. It is further alleged that the accused persons also snatched gold chain worth Rs. 40,000/-.

4. Learned counsel for the appellants submits that appellants are innocent and have committed no offence. Appellants have falsely been implicated in this case as there is admitted land dispute between the parties for which appellants have filed writ bearing CWJC No. 14416 of 2023 in which respondent authorities are directed to maintain *status quo vide* order dated 01.12.2023. As per F.I.R., alleged occurrence took place on 26.06.2022 but F.I.R. for the same has been lodged on 01.09.2023 which itself creates doubt over veracity of prosecution case. Allegation of assault and abuse is general and omnibus. There is no allegation of any specific overt act against appellants. Moreover, 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.

5. Learned Spl. Public Prosecutor for the State as well and learned counsel for the respondent No. 2 vehemently opposed the bail application.

6. 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 Special Judge, SC/ST Act, Samastipur in connection with A.B.P. No. 4031 of 2023 arising out of Khanpur P.S. Case No. 230 of 2023.

7. Accordingly, this criminal appeal is allowed and impugned order dated 18.12.2023 is set aside with respect to these appellants only.

(Prabhat Kumar Singh, J)

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