

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1097 of 2024

Arising Out of PS. Case No.-619 Year-2023 Thana- FATEHPUR District- Gaya

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1. Bablu Rajvanshi S/O Lakhani Rajvanshi R/O Village- Rasalpur, Mahugain, P.S- Fatehpur, Distt.- Gaya.
 2. Gautam Rajvanshi S/O Girja Rajvanshi R/O Village- Rasalpur, Mahugain, P.O- Tarwan, P.S- Fatehpur, Distt.- Gaya.
 3. Uttam Rajvanshi S/O Sita Rajvanshi R/O Village- Rasalpur, Mahugain, P.O- Tarwan, P.S- Fatehpur, Distt.- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Lalan Chaudhary S/O Arjun Chaudhary R/O Village- Meharpur, P.S- Fatehpur, Distt.- Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pintu Kumar Patel, Advocate
For the Respondent/s : Mr. Binay Krishna, SPP

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

ORAL ORDER

3 06-09-2024 Heard learned counsel for the appellants and learned Spl.
P.P. for the State.

2. This is an appeal under 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 04-01-2024 passed by the Exclusive Special Judge, SC/ST Act, Gaya in A.B.P. No. 446 of 2023 in connection with Fatehpur P.S. Case No. 619 of 2023 registered for the offences punishable under Sections 147, 341, 323, 324, 307, 379 & 504



of the Indian Penal Code as well as Sections 3(i)(r)(s) of the SC/ST Act.

3. Prosecution case in short is that informant was returning with Chhotu Chaudhary, Arjun Chaudhary and Babulal Chaudhary from taking wages from the house of Ranjeet Yadav and as soon as they reached at *Rasalpur Mahuagain* village, all the accused persons started abusing the informant by his caste name. Babulal Chaudhary and Arjun Chaudhary were assaulted by means of sword by Anuj Kumar, Santosh Rajbanshi. It is also alleged that Lalan Chaudhary and Chhotu Chaudhary were assaulted by means of iron rod by Santosh Rajbanshi and Gautam Rajbanshi (appellant). It is further alleged that Chandan Rajbanshi snatched Rs. 30,000/- from the informant and also snatched golden Tabij of Chhotu Chaudhary.

4. Learned counsel for the appellants submits that appellant No.1 and appellant No.2 bears one criminal antecedent, while the appellant No.3 claims clean antecedent and from perusal of the allegation as alleged in the FIR, it would manifest that *prima facie* no offence under the SC/ST Act is made out against the appellants. There is no specific allegation alleged against the appellant Nos.1 & 3 even under Section 307



of the Indian Penal Code. It is alleged that appellant No.2 has assaulted by means of iron rod to Lalan Chaudhary and Chhotu Chaudhary. Nothing has been recovered from the possession of the appellants. There is delay of two days in lodging of the FIR. Co-accused has been allowed regular bail by this Court vide order dated 27-06-2024, passed in Cr. Appeal (SJ) No. 1740 of 2024.

5. Learned S.P.P. for the State as also learned counsel for the Informant opposes the prayer for anticipatory bail of the appellants.

6. Considering the aforesaid facts and circumstances of the case, this Court is inclined to allow this appeal as against ***appellant Nos. 1 & 3***. Accordingly, the appeal is allowed as against ***appellant Nos. 1 & 3*** and order dated 04-01-2024 passed by Exclusive Special Judge, SC/ST Act, Gaya is hereby set aside as against ***appellant Nos. 1 & 3***.

7. Let the appellant Nos. 1& 3 above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special



Judge, SC/ST Spl. Court, Gaya in connection with Fatehpur P.S.
Case No. 619 of 2023, subject to the conditions as laid down
under Section 438(2) of the Cr.P.C.

8. So far as appellant No. 2, namely, Gautam Rajvanshi is concerned, considering the specific allegation of assault against him, this Court is not inclined to allow anticipatory bail to appellant No.2, namely, Gautam Rajvanshi. Accordingly appeal is *rejected* as against the *appellant No.2, namely, Gautam Rajvanshi*.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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