

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.863 of 2024

Arising Out of PS. Case No.-41 Year-2023 Thana- SC/ST District- Araria

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1. Md. Zahid @ Zahid Son of Sajjad Resident of Village- Banmottar, Ward No. 13, Ps- Jokihat, Dist- Araria
 2. Md. Afaq @ Md. Afak Son of Late Badruddin Resident of Village- Banmottar, Ward No. 13, Ps- Jokihat, Dist- Araria

... .. Appellant/s

Versus

1. The State of Bihar
2. Leela Devi Wife of Late Shyamlal Rajak Resident of Village- Banmottar, Ward No. 13, PS- Jokihat, Dist- Araria

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agrawal, Sr. Adv. Mr. Arvind Kumar, Adv. Mr. Kumar Rajdeep, Adv.
For the State	:	Mr. Binay Krishna, SPP
For the Resp. No.2	:	None

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 20-06-2024 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State. Perused the case diary.

2. No one has appeared on behalf of the respondent no.2 though learned counsel for the State submits that he has already informed her.

3. The instant appeal has been filed by the appellants against the order dated 16.01.2024 passed by learned 1st Additional Sessions Judge Cum Special Judge, Araria whereby the prayer for



bail of the appellants in connection with Araria SC/ST P.S. Case No. 41 of 2023 under Sections 147, 149, 427, 504, 506, 323, 354(B) of the Indian Penal Code and Sections 3(2)(va) of the SC/ST (POA) Act was rejected.

4. The prosecution case, in short, is that on 18.12.2023 at about 09.30 hours, the accused persons including the appellants reached at the field of the Informant and started ploughing the same. On receipt of such information, the Informant reached there and protested for the same. Thereafter, the accused persons started abusing her by calling her caste name. It is alleged that on the order of Muralidhar Jha, Mohd. Afaque and Mohd. Zahid (appellants) assaulted her with sticks, rods, kicks and punches. Mohd. Afaque also assaulted on her head by iron rod. It is again alleged that Mohd. Zahid and Murlidhar Jha tore her Saree and blouse and made her half naked.

5. Learned counsel for the appellants submits that the appellants are falsely been implicated in the present case. Charge-sheet has



been submitted in this case. There is a prevalent land dispute between the parties. He further submits that the injury report shows that the injury sustained by the Informant is simple in nature. There is a case and counter case between the parties. The appellant no.1 has lodged Jokihat P.S. Case No. 590 of 2023 dated 25.12.2023. The co-accused Murlidhar Jha has also lodged Jokihar P.S. Case No. 574 of 2023 dated 14.12.2023 against the son of the Informant and others. The present case is the counter blast of the case lodged by Murlidhar Jha. Learned counsel for the appellants further submits that the appellants have not taken the caste name of the informant. Hence, no offence under the provisions of SC/ST Act is made out against him. The appellants have no intention to disgrace the image of the informant in public view. The appellants are in custody since 05.01.2024 and have one criminal antecedent.

6. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellants.



7. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the appellants, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 16.01.2024 passed by learned 1st Additional Sessions Judge Cum Special Judge, Araria, is hereby set aside.

8. Let the appellants, abovenamed, be released 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 Court below/concerned Court in connection with Araria SC/ST P.S. Case No. 41 of 2023.

(Rudra Prakash Mishra, J)

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