

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.884 of 2024

Arising Out of PS. Case No.-96 Year-2021 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. DIPESH SAH @ DIPESH PRASAD SON OF BILAS SAH RESIDENT OF VILLAGE - SONBARSA TOLA DHANKHARAIYA TIWARI TOLA, P.S. - HARSIDHI, DISTRICT - EAST CHAMPARAN
 2. RANI DEVI WIFE OF BILAS SAH RESIDENT OF VILLAGE - SONBARSA TOLA DHANKHARAIYA TIWARI TOLA, P.S. - HARSIDHI, DISTRICT - EAST CHAMPARAN
 3. DEEPAK SAH @ DIPAK PRASAD SON OF BILAS SAH RESIDENT OF VILLAGE - SONBARSA TOLA DHANKHARAIYA TIWARI TOLA, P.S. - HARSIDHI, DISTRICT - EAST CHAMPARAN
 4. MANJU DEVI @ ANJU DEVI WIFE OF DEEPAK SAH RESIDENT OF VILLAGE - SONBARSA TOLA DHANKHARAIYA TIWARI TOLA, P.S. - HARSIDHI, DISTRICT - EAST CHAMPARAN
 5. GAYATRI DEVI @ GYANTI DEVI WIFE OF BILAS SAH RESIDENT OF VILLAGE - SONBARSA TOLA DHANKHARAIYA TIWARI TOLA, P.S. - HARSIDHI, DISTRICT - EAST CHAMPARAN
 6. MUSKAN @ MUSKAN KUMARI SON OF DEEPAK SAH RESIDENT OF VILLAGE - SONBARSA TOLA DHANKHARAIYA TIWARI TOLA, P.S. - HARSIDHI, DISTRICT - EAST CHAMPARAN
 7. PAPPU KUMAR SON OF RAJENDRA SAH RESIDENT OF VILLAGE - SONBARSA, P.S. - HARSIDHI, DISTRICT - EAST CHAMPARAN

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. INDU DEVI WIFE OF VISHWASH DAS RESIDENT OF VILLAGE - SONBARSA TOLA DHANKHARAIYA TIWARI TOLA, P.S. - HARSIDHI, DISTRICT - EAST CHAMPARAN

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Abhishek Kumar
		Mr. Hemant Ray
For the Respondent/s	:	Ms. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 03-12-2024 1. Heard learned Counsel for the appellants and learned
Additional Public Prosecutor for the State.



2. An order, dated 05.01.2024, passed, by learned Special Judge, SC/ST Act, East Champaran, at Motihari, in A.B.P No. 6058 of 2023, is under challenge in the present appeal preferred under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellants in connection with Complaint Case No. 96 of 2021 (Trial No. 03 of 2022), in which cognizance has been taken for the offences punishable under Sections 147/323 of the Indian Penal Code and Section 3 (i) (r)/(s)/W(i) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.
3. The prosecution case, as per the complaint petition filed by the complainant Indu Devi, is that on 08.08.2021, while the complainant was sleeping with her injured sister, all the accused persons entered into her house, abused the complainant by taking her caste name, assaulted her and her sister and appellant Dipesh Sah snatched mangalsutra of the sister of the complainant while co-accused Pappu Kumar snatched mangalsutra of the complainant. It has further been alleged that appellant Deepak Kumar and co-accused Pappu Kumar outraged



the modesty of the complaint and her sister by tearing their blouses.

4. Learned Counsel appearing on behalf of the appellants submits that the appellants have not committed any offence in the manner alleged and they have falsely been implicated in this case due to prior enmity between the parties arising out of land dispute. He further submits that both the parties are co-villagers. A counter case, bearing Harsidhi Police Station Case No. 349 of 202, has been filed by the appellant no. 3 against the witness no. 2 of the present complaint, namely, Virendra Sah.
5. On the other hand, learned Counsel for the Opposite Party No. 2 vehemently opposes the prayer for anticipatory bail and submits that the learned District Court has taken cognizance under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and other sections of the Indian Penal Code.
6. Having heard learned Counsel for the parties and taking into consideration the fact that the learned Special Court has taken cognizance under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, finding *prima facie* case against the



appellants and in view of the decision of the Supreme Court, in the case of **Bachu Das v. The State of Bihar and Others**, reported in **(2014) 3 SCC 471**, this appeal, for grant of anticipatory bail, is not maintainable.

- 7. Accordingly, this appeal is dismissed and the order, dated 05.01.2024, passed, by learned Special Judge, SC/ST Act, East Champaran, at Motihari, in A.B.P No. 6058 of 2023, is hereby affirmed.
- 8. However, it is made clear that if the appellants surrender and seek regular bail, the same shall be considered on its merit, if possible on the same date, without being prejudiced with the fact that this Court has dismissed the anticipatory bail application of the appellants as not maintainable.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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