

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.800 of 2023

Arising Out of PS. Case No.-93 Year-2020 Thana- KANGLI District- West Champaran

MOTI DEVI D/O BRIJ LAL MUKHIYA R/O VILL.- SUGAHA,
BHAVANIPUR, P.S.- KANGLI, DISTT.- WEST CHAMPARAN

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. JHAKAD PASWAN SON OF LATE PRASAD PASWAN R/O VILL.-
SUGAHA, BHAVANIPUR, P.S.- KANGLI, DISTT.- WEST CHAMPARAN

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey, Adv.
For the Respondent/s : Mr.Usha Kumari 1, Spl.pp

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

8 23-02-2024 Heard learned counsel for the appellant and learned
counsel for the informant as well as learned Special Public
Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act against the rejection of prayer for anticipatory
bail vide order dated 16.02.2022 passed by the learned
Additional District and Sessions Judge 1st Cum Special Judge,
SC/ST, Bettiah, West Champaran in A.B.P. No. 161 of 2022
arising out of Kangli P.S. Case No. 93 of 2020 dated 09.11.2020
registered for the offence/s punishable u/ss 323, 324, 341, 379,
504 and 506 read with section 34 of the Indian Penal Code and



3(i)(r)(s) of the SC/ST (POA) Act.

3. As per the prosecution case, the appellant and the co-accused persons are alleged to have abused the informant by calling his caste name and thereafter, on the exhortation of Brijlal Mukhia, the accused Tilai Mukhia assaulted the informant with *Gadasa* on his head causing injury thereafter all the accused also assaulted the informant with lathi and fatta. When his son and other people came to rescue, all the accused assaulted them.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the incident. There is general and omnibus allegation against the appellant who is a lady. Learned counsel has further submitted that no specific caste name has been called by the appellant hence no case is made out under section SC/ST Act. The appellant has no criminal antecedent as stated at para 3 of the bail petition.

5. Learned counsel for the informant as well as learned Spl. P.P. for the State has vehemently opposed the



anticipatory bail petition of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as finding some substance in the contention of the learned counsel for the appellant, the impugned order dated 16.02.2022 passed by the learned Additional District and Sessions Judge 1st Cum Special Judge, SC/ST, Bettiah, West Champaran in A.B.P. No. 161 of 2022 arising out of Kangli P.S. Case No. 93 of 2020, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, in the event of his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge 1st Cum Special Judge, SC/ST, Bettiah, West Champaran in A.B.P. No. 161 of 2022 arising out of Kangli P.S. Case No. 93 of 2020, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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