

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1031 of 2024

Arising Out of PS. Case No.-151 Year-2023 Thana- GHOSWARI District- Patna

1. Dharo Mahto S/o Lauki Mahto Resident of Village- Isha Nagar, P.S.- Ghoshwari, District- Patna
2. Arvind Mahto S/o Siyasharan Mohto Resident of Village- Isha Nagar, P.S.- Ghoshwari, District- Patna
3. Subodh Mahto S/o Siyasharan Mahto Resident of Village- Isha Nagar, P.S.- Ghoshwari, District- Patna
4. Lalo Mahto @ Lalan Mahto S/o Late Brahamdeo Mahto Resident of Village- Isha Nagar, P.S.- Ghoshwari, District- Patna

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Arun Kumar Arun, Adv.
For the Resp No. 2	:	Mr. Satish Kr Sinha, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, Spl.pp.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 02-05-2024 Heard learned counsel for the appellants and learned counsel for the respondent no. 2 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, 1989 against the rejection of prayer for bail vide order dated 03.01.2024 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Patna in Special Case No. 405 of 2023 arising out of Ghoswari P.S. Case No. 151 of 2023 dated 22.08.2023 registered for the offence/s punishable u/ss 147, 148,



149, 323 and 302 of the Indian Penal Code, 27 of the Arms Act and 3(i)(r)(s) / 3(2) (v)/ 3(2) of the SC/ST (POA) Act.

3. As per the prosecution case, the informant purchased a piece of land from one Dev Nath Mahto and others. Thereafter the informant's younger brother was irrigating the said land, in the meantime, the appellants along with the other co-accused persons surround the informant's brother and abused him by calling his caste name and assaulted him with lathi, iron rod and spade. Thereafter, on the exhortation of the co-accused, Bijli Mahto, the appellants and the co-accused person fired on the informant's brother causing bullet injury on his both hands and his leg and they fled away.

4. Learned counsel for the appellants has submitted that the appellants have falsely been implicated in this case due to ulterior motive. The appellants have been implicated in this case due to long pending land dispute between the both parties vide Title Suit No. 104 of 2018 in the Court of the Sub-Judge-IV, Barh. As per the Postmortem report, no fire arm injuries were found on the person of deceased. 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 alleged incident hence no case is made out under section SC/ST Act. The appellants have eight other criminal antecedents as stated in para 3 of the bail petition. The appellant no. 1 and 2 are in custody since 25.08.2023 and the appellant no. 3 and 4 are in custody since 28.08.2023.

5. Learned counsel for the respondent no. 2 as well as learned Spl. P.P. for the State has vehemently opposed the bail petition of the appellants.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellants, the impugned order dated 03.01.2024 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Patna in Special Case No. 405 of 2023 arising out of Ghoswari P.S. Case No. 151 of 2023, is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, are directed to be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST (POA) Act, Patna in Special Case No. 405 of 2023 arising out of Ghoswari P.S. Case No. 151 of 2023, with the condition/s:-



(i) The appellants are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellants are liable to be cancelled.

(Chandra Prakash Singh, J)

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