

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.738 of 2022**

Arising Out of PS. Case No.-119 Year-2019 Thana- CHAPRA MUFFASIL District- Saran

Devnath Ray @ Devdutt Ray, aged about 65 years, Gender-Male, S/o Laxuman Ray, Resident of Village- Makhdum Ganj, Khalpura, P.S.- Muffasil, District- Chapra.

... .. Appellant

Versus

1. The State of Bihar.
2. Lal Bhagwan Prasad, aged about 41 years, son of Ram Aadhar Prasad, Resident of village- Vishnapura, P.S.- Mufassil, District- Saran.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Ajit Kumar Singh, Advocate
For the Respondent No.2:	:	None.
For the State	:	Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

7 02-02-2024 Heard learned counsel for the appellant and learned Spl. P.P. for the State. However, learned counsel for the respondent no. 2 is not present despite service of notice upon him.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the ‘SC/ST Act’) against the refusal of prayer of anticipatory bail of the appellant vide order dated 20.01.2022, passed by the learned IIIrd Additional District and Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in A.B.P. No. 3110 of 2021



in connection with Chapra Muffasil P.S. Case No. 119 of 2019 registered for the offences punishable under Sections 147, 149, 341, 323, 324, 504 of the I.P.C. read with Sections 3(1)(r)(s) of the SC/ST (POA) Act.

3. The prosecution case, in brief, is that when the informant was on the road, all the accused persons including the appellant armed with lathi, danda, rod, Kudal (spade) and sword came and started abusing him with his caste name. On protest, the accused persons assaulted him. When the informant's cousins Jai Prakash Prasad, Shailesh Kumar and nephew Anuj Kumar and Om Prakash Prasad and Lalit Prasad came to save him, the co-accused Laxman Rai assaulted with sword on the head of cousin brother, due to which, blood started oozing. In the meantime, the co-accused Manish Kumar assaulted Sandesh Kumar with Kudal on his left elbow causing cut injury and the co-accused Manoj Rai assaulted Anuj Kumar with a rod on his left elbow causing cut injury.

4. It is submitted by learned counsel for the appellant that the appellant is quite innocent and has falsely been implicated in the present case due to ulterior motive. It is submitted that there is no allegation of assault on the injured against the appellant. The specific allegation of assault is against



the co-accused, namely, Laxman Rai, Manish Kumar Rai and Manoj Rai. It is further submitted that the co-accused, namely, Laxman Rai, Manish Kumar Rai and Manoj Rai against whom there is specific allegation of assault and commission of injuries have already been granted anticipatory bail by the then Co-ordinate Bench of this Court vide Cr. Appeal (SJ) No. 2103 of 2020 under order dated 24.02.2021. It is further submitted that the occurrence took place on 21.03.2019 at 4.00 P.M., and the F.I.R., was lodged on the same day at 8.30 P.M., and for such delay, no explanation has been given by the prosecution. It is further submitted that during the course of investigation, no iota of evidence has been collected by the Investigating Agency establishing the complicity of the appellant in commission of such occurrence as alleged in the F.I.R. No member of public was present at the relevant point of time of the alleged incident. The alleged occurrence has not taken place in a public view. Hence, no offence under the SC/ST Act is made out against the appellant. The appellant has clean antecedent as stated in paragraph no. 3 of the memo of appeal.

5. Learned Spl. P.P. for the State has opposed the prayer for anticipatory bail of the appellant.

6. In view of the aforesaid facts and circumstances of



the case, the impugned order dated 20.01.2022, passed by learned IIIrd Additional District and Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in A.B.P. No. 3110 of 2021 in connection with Chapra Muffasil P.S. Case No. 119 of 2019, 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 IIIrd Additional District and Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in connection with Chapra Muffasil P.S. Case No. 119 of 2019, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Chandra Prakash Singh, J)

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