

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1164 of 2023

Arising Out of PS. Case No.-38 Year-2019 Thana- SC/ST District- Purnia

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1. Mojibur Rahman @ Mojib @ Md Mojib, aged about 70 years (Male), Son of Late Sk. Insar, Resident of village-Farakiya, Police Station-Dagarua, District - Purnia.
 2. Abdul Majid @ Majid @ Md Majid, aged about 65 years (Male), Son of Late Sk. Insar, Resident of village-Farakiya, Police Station-Dagarua, District - Purnia.

... .. Appellants

Versus

1. The State of Bihar.
2. Pataso Devi @ Patasiya Devi, aged about 50 years (Female), Wife of Upendra Rai, Resident of village-Farakiya Balgachhi, Police Station-Dagarua, District - Purnia.

... .. Respondents

Appearance :

For the Appellants	:	Mr. N.K. Agrawal, Sr. Advocate, Mr. Dr. Bidhu Ranjan, Advocate and Mr. Kumar Rajdeep, Advocate.
For the Respondent No.2:	:	Mr. Manish Kumar, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 05-01-2024 Heard learned senior counsel for the appellants, learned counsel for the respondent no. 2 and learned Spl. P.P. 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 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail of the appellants vide order dated 18.01.2023, passed by the learned Special Judge, SC/ST Act, Purnia in A.B.P. No. 02 of 2023 CIS 02 of 2023 in connection with SC/ST Case No. 38 of 2019 registered for the offences punishable under Sections 341, 323, 354, 504, 506/34 of the Indian Penal Code and Sections 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The prosecution case, in brief, is that owing to the land dispute, the appellants alongwith other accused persons are alleged to have come to the informant's door and the appellants started abusing her by caste name stating why did she bring grass from the disputed land. Thereafter, all F.I.R. named accused persons abused and assaulted her by means of fists and slaps.

4. It is submitted by learned counsel for the appellants that the appellants are quite innocent and have falsely been implicated in the present case due to ulterior motive. It is submitted that the occurrence took place on 30.01.2019 as to when the F.I.R. was instituted on 23.02.2019 after a lapse of twenty six days for which no explanation has been given by the



prosecution. There is general and omnibus allegation against the appellants. There are series of litigation pending between the parties. No member of public was present at the relevant point of time of the alleged incident. Hence, no offence under SC/ST Act is made out against the appellants. The appellants have clean antecedent as stated in paragraph no. 3 of the memo of appeal.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for anticipatory bail of the appellants.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 18.01.2023, passed by learned Special Judge, SC/ST Act, Purnia in A.B.P. No. 02 of 2023, CIS 02 of 2023 in connection with SC/ST Case No. 38 of 2019, is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, in the event of their 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) each with two sureties of the like amount each to the satisfaction of the learned Special Judge,



SC/ST Act, Purnia in connection with SC/ST Case No. 38 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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