

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1426 of 2024

Arising Out of PS. Case No.-282 Year-2023 Thana- BENIPATTI District- Madhubani

MD. RAJIK HUSSAIN S/O LATE MD. JAHID HUSSAIN R/O VILLAGE-SOHRAUL, P.S- BENIPATTI, DISTT.- MADHUBANI.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. MISHRI LAL RAM S/O LATE RAMLAKHAN RAM R/O VILLAGE-SOHRAUL, P.S- BENIPATTI, DISTT.- MADHUBANI.

... .. Respondent/s

Appearance :

For the Appellant	:	Mr. Ajay Kr. Thakur, Advocate Ms. Vaishnavi Singh, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.PP
For the Respondent	:	N o n e

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 27-06-2024 Heard learned counsel appearing for the appellant and learned Special Public Prosecutor appearing for the respondent-State.

2. Despite valid service of notice, no body appears on behalf of Respondent No. 2.

3. This appeal has been filed for setting aside order dated 12.02.2024 passed in a case registered for the offence punishable under Sections 341, 323, 324, 325, 307, 504, 506 and 34 of the Indian Penal Code and Sections 3(1), 3(1)(r), 9(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellant has been rejected.



4. As per prosecution case, on the alleged date and time of occurrence, while the informant was walking on the road, this appellant came there and while talking, he slapped on informant's mobile phone, due to which his mobile phone fell down and thereafter this appellant, along with other accused persons named in the F.I.R., variously armed with lathi, danda, rod and sword, abused the informant by caste name and assaulted him. It is further disclosed that reason for the occurrence is an old dispute.

5. It is submitted by learned counsel appearing on behalf of the appellant that no occurrence, as alleged by the prosecution, has ever taken place and the present informant/Respondent No. 2 is in the habit of lodging false case against several persons in order to extort money in the name of compromise and he has been doing this for a long period. As per F.I.R., there is no specific allegation of assault against this appellant. It is also apparent from the F.I.R. that there is old enmity between the parties and only with a view to harass the appellant, this false and concocted case has been lodged. It is not case of the informant that any member of the public was present at the time of incidence and as such, no case under the Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act is made out against this appellant.

6. Learned Spl. P.P. appearing for the respondent-State has opposed the prayer for grant of bail to the appellant.

7. Considering the aforesaid facts and circumstances of the case, this appeal is allowed and the impugned order dated 12.04.2024 passed by the Court of learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani, in connection with A.B.P. No. 2630 of 2023 arising out of Benipatti P.S. Case No. 282 of 2023 is hereby set aside with respect to these appellant only.

8. Accordingly, let the appellant, named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani, in connection Benipatti P.S. Case No. 282 of 2023.

(Prabhat Kumar Singh, J)

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