

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1467 of 2024

Arising Out of PS. Case No.-821 Year-2023 Thana- MOTIHARI MUFASIL District- East
Champaran

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Rohit Kumar Son of Pundeo Chaudhary @ Punyadev Chaudhary @ Pundev
Chaudhary Resident of Village- Kaswa Dehakaha, P.S.- Piprakothi, Dist.- East
Champaran

... .. Appellant/s

Versus

1. The State of Bihar Patna
2. Krishna Das Son of Ramlochan Das Resident of Village- Laxman Tola, P.S.-
Muffasil, Dist.- East Champaran

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Abhishek Kumar , Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. PP
For the informant	:	Mr. Rajesh Kumar , Advocate
		Mr. Dhiraj Kumar , Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 09-08-2024 Heard learned counsel for the parties.

2. This appeal has been filed for setting aside order dated 30.01.2024 passed in a case registered for the offence punishable under sections 341, 323, 379, 504, 506 and 34 and other allied sections of the Indian Penal Code and sections 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellant has been rejected.

3. As per the prosecution case, all the F.I.R.-named accused persons, including this appellant, abused the informant



by caste name and also assaulted him by shoes, spat upon him, tore his clothes, and also took away his gold chain worth Rs. 85,000/- . It is further alleged that co-accused Vinod Prasad took out Rs. 2000/- from the pocket of the informant and also threatened him with dire consequences.

4. It is submitted that from F.I.R., it is apparent that the appellant is a student and reads in B.A. Part I and he is also a member of the BJP, whereas the informant is the RJD leader as *Zila Parishad*, and due to political rivalry, this false and concocted case has been lodged against this appellant. The allegation of assault against the appellant is general and omnibus. The rest of the allegation is ornamental in nature. All sections are bailable except 379 IPC and 3(i)(r)(s) Sc and ST Act, which are not attracted against this appellant. F.I.R. does not disclose that the alleged incident and abuses were uttered within public view, as such, no case under the SC/ST Act is made out. Appellant claims clean antecedent.

5 . Counsel for the State as well as respondent No. 2 opposed the prayer for bail and submitted that petitioner is named in the F.I.R. and he alongwith other co-accused persons assaulted him by shoes, spat upon him, assaulted him by shoes, spat upon him, tore his clothes, and also took away his gold



chain worth Rs. 85,000/- .

6. Considering the fact that F.I.R. does not disclose that the alleged incident and abuses were uttered within public view and other circumstances of the case , this appeal is allowed and the impugned order is set aside. 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 the learned Special Judge, SC/St (POA) Act East Champaran Motihari in connection with ABP No. 249 of 2024 arising out of Muffasil Police Station Case No. 821 of 2023 .

(Prabhat Kumar Singh, J)

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