

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1726 of 2023**

Arising Out of PS. Case No.-249 Year-2022 Thana- SIKARPUR District- West Champaran

Kanhaiya Kumar Patel, Son of Munna Patel, Resident of Vill- Shihpur, P.S.-
Sathi, District- West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Ajay Kumar Baitha, Son of Chandradev Baitha, Resident of Village- Takiya ward no-1, P.S.- Shikarpur, Dist- West Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

7 23-08-2024 1. Heard learned counsel for the appellant and
learned Special P.P. for the State.

2. The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') against the order dated 28.02.2023 passed by the learned Additional District and Sessions Judge 1st cum Special Judge (SC/ST), Bettiah, West Champaran, in A.B.P. No. 343/2023 in connection with Shikarpur P.S. Case No. 249/2022 registered under Sections 341, 323, 307, 504, 325, 354/34 of the Indian



Penal Code and Sections 3(i)(r)(s) of SC/ST (POA) Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. Notice appears served to respondent no. 2 by way of substituted mode of service, which shows that it has been served validly upon informant but failed to join the present proceedings.

5. Allegedly, the FIR named accused persons including the appellant hurled abuses and assaulted the informant's side by means of various weapons.

6. Learned counsel appearing for the appellant submitted that the appellant was falsely implicated with present case as no occurrence was committed by him. It is submitted that no occurrence has ever taken place in the manner as it was alleged. It is also pointed out that nothing can be gathered from the face of FIR, which may suggest that occurrence took place out of atrocities as defined within the meaning of Act. It is also pointed out that the allegation is very much general and omnibus



against appellant whereas same appears specific against co-accused, namely, Prince Kumar and moreover, nobody has sustained any grievous injuries during the occurrence. It is also pointed out that appellant is a man of clean antecedent. While concluding argument, it is submitted that similarly situated co-accused, namely, Rohit Kumar and Rambhu Kumar have granted anticipatory bail by one of the learned co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 2731 of 2022 dated 21.02.2023 and Cr. Appeal (SJ) No. 3012 of 2022 dated 11.01.2023 respectively.

7. Learned Special P.P. opposes the prayer of bail.

8. In view of aforesaid factual submissions and by taking note of fact, as allegation *qua* appellant is appearing very much general and omnibus rather same is appearing specific against co-accused Prince Kumar, accordingly, above-named appellant in the event of his arrest or surrender before the learned trial Court, within



a period of six weeks of the order, is directed to be released on bail furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge 1st cum Special Judge (SC/ST), Bettiah, West Champaran/concerned Court, where the case is pending in connection with A.B.P. No. 343/2023 in connection with Shikarpur P.S. Case No. 249/2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

9. Accordingly, impugned order dated 28.02.2023 as passed through A.B.P. No. 343/2023 is hereby set/quashed.

10. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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