

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2128 of 2023

Arising Out of PS. Case No.-633 Year-2022 Thana- SHAHPUR PATORI District- Samastipur

1. ARVIND RAY Son of Late Vishnu Ray Resident of village - Telgama, P.S. - Patory (Mohanpur O.P.), Distt. - Samastipur
2. Manish Kumar Ray Son of Sita Ram Ray Resident of village - Telgama, P.S. - Patory (Mohanpur O.P.), Distt. - Samastipur
3. Batohi Ray @ Haribansh Ray Son of Late Newa Lal Ray Resident of village - Telgama, P.S. - Patory (Mohanpur O.P.), Distt. - Samastipur

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Sonu Kumar Son of Indrajeet Paswan Resident of village - Baraitha, Tole Dashhara, P.S. - Patory (Mohanpur O.P.), Distt. - Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Jitendra Narain Sinha, Adv.
For the OP No. 2	:	Mr.Bijay Bhushan Prasad, Adv.
		Mr. Shekhar Harshavardhan, Adv.
For the Respondent/s	:	Mr.Usha Kumari 1, Spl. pp

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 23-02-2024 Heard learned counsel for the appellants and learned counsel for the informant as well as learned Special Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the rejection of prayer for anticipatory bail vide order dated 28.03.2023 passed by the learned Court of Special Judge, SC/ST (POA) Act, Samastipur in A.B.P. No. 948 of 2023 arising out of Patory (Mohanpur O.P.) P.S. Case No. 633 of 2022 dated 30.12.2022 registered for the offence/s punishable u/ss 147, 149, 323,



324, 307 of the Indian Penal Code, 27 of the Arms Act and 3(1)(r) / 3(2) (va)/ 3(2)(v) of the SC/ST (POA) Act.

3. As per the prosecution case, the co-accused dashed the informant's mother by his bike, when she asked him to ride carefully, he fired on her due to that she sustained bullet injury on her right shoulder. It is further alleged that when the informant came to rescue, the appellants along with other co-accused persons came and assaulted the informant's brother with fist and legs.

4. Learned counsel for the appellants has submitted that the appellants have falsely been implicated in this case due to ulterior motive. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time alleged occurrence. No casteist remark was mentioned in the FIR, hence no case is made out under section SC/ST Act. There is general and omnibus allegation against the appellants. The appellants have no criminal antecedents as stated at para 3 of the bail petition.

5. Learned counsel for the informant as well as learned Spl. P.P. for the State has vehemently opposed the anticipatory bail petition of the appellants.

6. In view of the aforesaid facts and circumstances of the case as well as finding some substance in the contention of the learned counsel for the appellants, the impugned order dated 28.03.2023 passed by learned Court of Special Judge, SC/ST (POA) Act, Samastipur in A.B.P. No. 948 of 2023 arising out of Patory



(Mohanpur O.P.) P.S. Case No. 633 of 2022, 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 Court of Special Judge, SC/ST (POA) Act, Samastipur in A.B.P. No. 948 of 2023 arising out of Patory (Mohanpur O.P.) P.S. Case No. 633 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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