

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2350 of 2023

Arising Out of PS. Case No.-3 Year-2023 Thana- SC/ST District- Gaya

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1. Ramayan Mishra (Male), aged about 65 years, Son of Late Meghnath Mishra, Resident of village-Chudihara, P.S. - Belaganj, Distt. - Gaya.
 2. Tantan Mishra @ Praveen Mishra @ Tatantan, (Male), aged about 35 years, Son of Ramayan Mishra, Resident of village-Chudihara, P.S.-Belaganj, Distt. - Gaya.
 3. Arvind Mishra, (Male), aged about 32 years, Son of Ramayan Mishra, Resident of village-Chudihara, P.S.-Belaganj, Distt. - Gaya.
 4. Tamatar Mishra @ Niranjan Mishra, (Male), aged about 28 years, Son of Ramayan Mishra, Resident of village-Chudihara, P.S.- Belaganj, Distt.-Gaya.

... .. Appellants

Versus

1. The State of Bihar.
2. Manger Manjhi, (Male), Son of Faguni Manjhi, Resident of village-Chudihara, P.S. - Belaganj, Distt. - Gaya.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Manish Kumar No. 2, Advocate
For the Respondent No.2:	:	Mr. Sanjay Kumar Sinha, Advocate
For the State	:	Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 02-02-2024 Heard learned 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 17.03.2023, passed by the



learned Exclusive Special Judge, SC/ST, Gaya in A.B.P. No. 49 of 2023 in connection with SC/ST P.S. Case No. 03 of 2023 registered for the offences punishable under Sections 341, 323, 354, 448, 504, 506/34 of the I.P.C. and Sections 3(1)(r)(s)(w) of the SC/ST (POA) Act.

3. The prosecution case, in brief, is that the appellants are alleged to have entered the house of the informant and started abusing and assaulting him by calling his caste name. It is further alleged that the appellant no. 1 assaulted him with lathi and injured his right rib, the appellant nos. 2, 3 and 4 assaulted him with lathi and injured his right hand, back and leg. When his wife came for rescue, they also assaulted her with lathi, due to which, she became unconscious. Thereafter, they abused and threatened to kill.

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 there is general and omnibus allegation against the appellants. It is submitted that as per F.I.R., it is evident that the allegation of assault is on non-vital part of the injured. It is further submitted that in fact, the informant and his wife have not sustained any injury as they never went to any doctor for



their treatment. It is further submitted that during investigation, police has also not found any cogent material against the appellants which suggests their involvement in the present case. No member of public was present at the relevant point of time of the alleged incident. The alleged occurrence has not taken place in a public view. Hence, no offence under the 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 and 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 as well as finding substance in the contention of learned counsel for the appellants, the impugned order dated 17.03.2023, passed by learned Exclusive Special Judge, SC/ST Gaya in A.B.P. No. 49 of 2023 in connection with SC/ST P.S. Case No. 03 of 2023, 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 Exclusive Special Judge, SC/ST, Gaya in connection with SC/ST P.S. Case No. 03 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Chandra Prakash Singh, J)

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