

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2400 of 2023

Arising Out of PS. Case No.-75 Year-2023 Thana- KALYANPUR District- East Champaran

1. Awdhesh Pandey @ Jata Pandey @ Awdesh Pandey @ Jate Pandey, about 55 Y/M, Son of Sri Nagnarayan Pandey @ Nagu Pandey, Resident of village - Mirchaiya, P.S. - Kalyanpur, Distt. - East Champaran.
2. Jhunna Pandey @ Sanjeet Kumar Pandey, about 21 Y/M, Son of Awdesh Pandey @ Jata Pandey, Resident of village-Mirchaiya, P.S. - Kalyanpur, Distt. - East Champaran.
3. Bitu Pandey @ Ujjawal Pandey @ Ujjawal Kumar Pandey, Son of Sri Awdesh Pandey @ Jata Pandey, Resident of village-Mirchaiya, P.S.- Kalyanpur, Distt. - East Champaran.

... .. Appellants

Versus

1. The State of Bihar.
2. Manita Devi, Wife of Sri Subodh Baitha, Resident of village-Mirchaiya, P.S. - Kalyanpur, Distt. - East Champaran.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Abhishek Kumar, Advocate
For the Respondent No.2:	:	Mr. Rajesh Kumar, Advocate
For the State	:	Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 12-01-2024 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 12.04.2023, passed by the



learned Special Judge, SC/ST Act, East Champaran at Motihari in A.B.P. No. 1342 of 2023 in connection with Kalyanpur P.S. Case No. 75 of 2023 registered for the offences punishable under Sections 341, 342, 323, 324, 307, 354B, 379, 504, 506/34 of the Indian Penal Code and Sections 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The prosecution case, in brief, is that on 01.03.2023 at about 9.30 A.M., the appellants and five unknown persons armed with weapons came on the informant's land which was being ploughed by her and abused her by calling her caste name. On protest, Awadesh Kumar @ Jata Pandey (appellant no. 1) caught hold of her hairs and thrashed on the earth, tore her saree and blouse, and Bitu Pandey (appellant no. 3) snatched her Mangalsutra and ear-ring and on hulla, when her husband and the father-in-law came, then on the order of the appellant no. 2, the appellant no. 1 assaulted with a spade several times on their head, due to which her husband and the father-in-law sustained injuries.

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 land dispute and 145 Cr.P.C. proceeding is going on between the parties. It is submitted that prior to lodging the present case, the appellant no. 3 had lodged Kalyanpur P.S. Case No. 44 of 2023 against the husband and the father-in-law of the informant. It is submitted that from perusal of the injury report of the informant's father-in-law, Lalan Baitha, which is in the case diary, it appears that the doctor has found two lacerated wounds on the left cheek and left lower part of the stomach, and all the injuries are found to be simple, caused by hard and blunt substance. As far as the injury report of the informant's husband Subodh Baitha is concerned, there is no injury report in the case diary. It is further submitted that, from perusal of the case diary, it is evident that no castiest remark was alleged against the appellants. It is further submitted that no member of public was present at the relevant point of time of the alleged incident. Hence, no offence under the SC/ST Act is made out against the appellants. The appellants have two criminal antecedents and in one case they are on bail 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, the impugned order dated 12.04.2023, passed by learned Special Judge, SC/ST Act, East Champaran, Motihari, in A.B.P. No. 1342 of 2023 in connection with Kalyanpur P.S. Case No. 75 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 Special Judge, SC/ST Act, East Champaran, Motihari in connection with Kalyanpur P.S. Case No. 75 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Chandra Prakash Singh, J)

U.K./-

U		T	
---	--	---	--

