

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2516 of 2023

Arising Out of PS. Case No.-40 Year-2022 Thana- SC/ST District- Vaishali

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1. BHAROSHANI DEVI @ VGESHWARI DEVI @ UGESHWARI PAL wife of Surendra Pal Village- Mustafapur Ps- Bidupur Dist- Vaishali at Hajipur
 2. CHANDAN KUMAR @ CHANDAN PAL son of Surendra Pal Village- Mustafapur Ps- Bidupur Dist- Vaishali at Hajipur
 3. KUNDAN KUMAR @ KUNDAN PAL son of Surendra Pal Village- Mustafapur Ps- Bidupur Dist- Vaishali at Hajipur

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Ratnesh Paswan son of Bhola Paswan Village- Mustafapur Ps- Bidupur Dist- Vaishali

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vinay Kumar Mishra, Adv.
For the Respondent/s : Mr.Usha Kumari 1, Spl.pp

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 15-03-2024 Heard learned counsel for the appellants and 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 10.05.2023 passed by the learned Special Judge, SC/ST (POA) Act, Vaishali at Hajipur in SC/ST P.S. Case No. 40 of 2022 dated 30.10.2022 registered for the offence/s punishable u/ss 147, 148, 149, 341, 323, 324, 307, 379, 447, 384, 385, 504 and 506 of the Indian Penal Code and sections 3(i)(r)/ 3(i) (s) of the SC/ST (POA) Act.

3. As per the prosecution case, when the informant went to



the house of Ganga Pal to demand his dues remuneration on that the appellants and the co-accused persons started abusing by calling his caste name. Thereafter, all the accused persons came with deadly weapons and the co-accused, Surendra Pal assaulted the informant on his head with sword causing injury and the co-accused Mukesh Pal assaulted with Hasua causing injury on his left hand's finger, ear and cheek and Garbani Devi snatched Hanumani and Gyatri Devi also snatched Rs. 45,000/-

4. Learned counsel for the appellants has submitted that the appellants have falsely been implicated in this case due to ulterior motive. There is case and counter case between the parties. There is no specific allegation against the appellants. There is land dispute between the parties. The appellant no. 1 is a lady. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no specific caste name has been called by the appellants hence no case is made out under section SC/ST Act. The appellant no. 2 and 3 have no criminal antecedents and the appellant no. 1 has one more criminal case as stated in para 3 of the bail petition.

5. 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 10.05.2023 passed by the learned Special Judge, SC/ST (POA) Act, Vaishali at Hajipur in SC/ST P.S. Case No. 40 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 Special Judge, SC/ST (POA) Act, Vaishali at Hajipur in SC/ST P.S. Case No. 40 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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