

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2910 of 2024

Arising Out of PS. Case No.-167 Year-2023 Thana- MIRGANJ District- Purnia

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1. AWDESH DAS SON OF NARESH DAS VILLAGE- MIRGANJ CHOWK, P.S.- MIRGANJ, DISTT.- PURNIA
 2. AKHILESH DAS SON OF NARESH DAS VILLAGE- MIRGANJ CHOWK, P.S.- MIRGANJ, DISTT.- PURNIA
 3. AWDESH SAH SON OF VINDESHWARI SAH VILLAGE- MIRGANJ CHOWK, P.S.- MIRGANJ, DISTT.- PURNIA

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. ABHAY PASWAN SON OF LATE CHULHAI PASWAN VILLAGE- KHEDLICHAK, WARD NO. 03, P.S.- MIRGANJ, DISTT.- PURNIA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sumit Kumar Bhagat
For the Respondent/s : Mr. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 26-09-2024 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

2. Learned counsel for the appellant has filed jointness affidavit which is kept on report.

3. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the rejection of prayer for bail vide order dated 04.06.2024 passed by the learned Court of Special Judge, SC/ST (POA) Act, Purnia in connection with



Mirganj P.S. Case No. 167 of 2023 dated 15.09.2023 registered for the offence/s punishable u/sss 147, 148, 149, 341, 323, 324, 354, 504 and 506 of the Indian Penal Code and sections 3(i)(r)(s) (w)(ii) / 3(2) (va) of the SC/ST (POA) Act.

4. As per the prosecution case, on 14.09.2024 at around 8 P.M. the informant's brother-in-law was returning to home by auto, he saw that some cattle were sitting on the road and he started removing the cattle. In the meantime, the appellants and the co-accused persons started abusing him by calling his caste name. On being opposed, all the accused persons started assaulting him with *lathi and danda*. When the informant and his family member went to lodge F.I.R for the aforesaid incident then all the accused persons started abusing them in the premises of police station and also threatened the informant to kill and also molested the family members of the informant.

5. 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 of the alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the alleged incident



hence no case is made out under SC/ST Act. There is general and omnibus allegation against the appellants. Similarly situated co-accused has already been granted bail by this Court vide order dated 18.07.2024 passed in Cr. Appeal (SJ) No. 1615 of 2024. The appellants have no criminal antecedent as stated in para 3 of the bail petition. The appellants are in custody since 18.05.2024.

6. Learned counsel for the respondent no. 2 as well as learned Spl. P.P. for the State has vehemently opposed the bail petition of the appellants.

7. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellants, the impugned order dated 04.06.2024 passed by the learned Court of Special Judge, SC/ST (POA) Act, Purnia in connection with Mirganj P.S. Case No. 167 of 2023, is set aside against the appellants. The criminal appeal is allowed.

8. Accordingly, the above named appellants, are directed to be enlarged on 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, Purnia in connection with



Mirganj P.S. Case No. 167 of 2023.

(Chandra Prakash Singh, J)

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