

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3208 of 2023

Arising Out of PS. Case No.-480 Year-2022 Thana- BIRAUL District- Darbhanga

1. MD. SARFE ALAM Son of Md. Jahangir R/O Village - Balia, P.S.- Biraul,
District - Darbhanga.
2. Md. Jahangir Son of Safique R/O Village - Balia, P.S.- Biraul, District -
Darbhanga.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raj Dular Sah

For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 23-02-2024 Heard learned counsel for the appellants 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 against the refusal of prayer for anticipatory bail vide order dated 09.05.2023 passed by the Additional District Judge 3-cum Exclusive Special Judge S.C./S.T. (POA) Act, Darbhanga in connection with A.B.P. No. 28/2023, arising out of Biraul P.S. Case No. 480 of 2022, registered for the alleged offences under Sections 147, 323, 341, 307, 354(B), 379 of the Indian Penal Code and Section 3(i)(r)(s)



of the Scheduled Castes and Scheduled Tribes (POA) Act.

3. As per the prosecution case, the appellants and the other co-accused persons along with 10-15 miscreants came to the informant's house and asked whereabouts of Varun Acharya and Radhe Chaupal and on refusal, the appellants on the exhortation made by co-accused, inflicted blow of rod on informant's father and the co-accused Md. Danish inflicted knife blow on the informant's causing injury injury and when family members protested, they too were assaulted and abused by calling their caste name. The appellant no. 2 is alleged to have inflicted Dabiya blow causing cut injury on the hand of informant's brother. There is further allegation of outraging the modesty of the informant's wife and the appellant no. 2 snatched her gold mangalsutra.

4. Learned counsel for the appellants submitted that the appellants are innocent and have been falsely implicated in this case. The allegation of abusing against the appellants is general and omnibus and no member of public was present at the relevant point of time of the alleged occurrence, hence, no offence under the provisions of SC/ST Act is made out against the appellants. From bare perusal of the F.I.R. there is general and omnibus allegation against all the accused persons. The



nature of injury is found to be simple in nature. There is case and counter case between the parties.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for anticipatory bail of the appellant.

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 09.05.2023 passed by the Additional District Judge 3-cum Exclusive Special Judge S.C./S.T. (POA) Act, Darbhanga in connection with A.B.P. No. 28/2023, arising out of Biraul P.S. Case No. 480 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/ 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 Additional District Judge 3-cum Exclusive Special Judge S.C./S.T. (POA) Act, in connection with A.B.P. No. 28/2023, arising out of Biraul P.S. Case No. 480 of 2022, subject to the conditions mentioned in



Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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