

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3275 of 2023

Arising Out of PS. Case No.-47 Year-2023 Thana- PHENHARA District- East Champaran

1. Rajan Sharma @ Rajan Kumar Sharma S/O Amika Lal Sharma R/O Village- Mankarwa, Ps. Phenhara, Dist. East Champaran
2. Ranjeet Sharma S/O Jagarnath Sharma R/O Village- Mankarwa, Ps. Phenhara, Dist. East Champaran
3. Rambha Devi W/O Sikandar Sharma R/O Village- Mankarwa, Ps. Phenhara, Dist. East Champaran
4. Ramlal Sharma S/O Raman Sharma R/O Village- Mankarwa, Ps. Phenhara, Dist. East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. VIKASH KUMAR S/O SHRI BRIJNANDAN RAM R/O VILLAGE- MANKARWA, PS. PHENHARA, DIST. EAST CHAMPARAN

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 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 20.06.2023 passed by the learned Special Judge, SC/ST Act, East Champaran at Motihari in connection with A.B.P. No. 2697 of 2023 (arising out of Phenhara P.S. Case No. 47 of 2023, registered for the alleged offences under Sections 147, 149, 341, 323, 307, 354(B), 379, 504 of the Indian



Penal Code and Sections 3(i)(r)(w) of the Scheduled Castes and Scheduled Tribes Act.

3. As per the prosecution case, when the informant along with his brother was returning from the market, all the accused persons including the appellants variously armed, surrounded the informant and his brother and started abusing him with his caste name and spitted on their body. On protest, the co-accused Sikander Sharma assaulted the informant and his brother with rod on their head. When the informant's mother came to rescue then all the accused persons abused her with caste name and outraged her modesty. The appellant no. 2 caught hold of the hair of the informant's mother and thrashed her on the ground. The appellants no. 2 and 3 and the co-accused Siya Devi made her nude, assaulted her and snatched her silver locket from her neck. They also took Rs. 2,000/- from the informant's pocket.

4. Learned counsel for the appellants submits 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 incident and hence, no offence under the provisions of SC/ST Act is made out against the appellants. As per the injury report of the injured, all the injuries are simple in nature. The appellants no. 1 and 2 have one criminal antecedent and other appellants have no criminal antecedent as stated in para 3 of the bail petition.



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 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 20.06.2023 passed by the learned Special Judge, SC/ST Act, East Champaran at Motihari in connection with A.B.P. No. 2697 of 2023 (arising out of Phenhara P.S. Case No. 47 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/ 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 learned Special Judge, SC/ST Act, East Champaran at Motihari in connection with A.B.P. No. 2697 of 2023 arising out of Phenhara P.S. Case No. 47 of 2023, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Ranjeet/-

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