

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3319 of 2023

Arising Out of PS. Case No.-92 Year-2023 Thana- PALANWA District- East Champaran

1. Shivnath Thakur Son Of Late Ramchandra Thakur Vill Kharkatwa, Ps- Palanwa, Dist- East Champaran
2. Ramekbal Thakur Son Of Late Ramchandra Thakur Vill Kharkatwa, Ps- Palanwa, Dist- East Champaran
3. Upendra Thakur Son Of Late Ramchandra Thakur Vill Kharkatwa, Ps- Palanwa, Dist- East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. BINDALAL SAH GAUD SON OF LATE JAYRAM SAH RESIDENT OF VILLAGE- KHARKATWA, PS- PALANWA, DIST- EAST CHAMPARAN

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Kumar Singh
For the Respondent/s : Mrs. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 29-03-2024 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 03.07.2023 passed by the learned Special Judge, SC/ST, East Champaran at Motihari in connection with A.B.P. No. 2507/2023, arising out of Palanwa P.S. Case No. 92 of 2023, registered for the alleged offences under Sections 341, 323, 324, 504, 379, 34 of the Indian Penal Code and Section 3(i)(r)(s)(ii)(va) of the S.C./S.T. (POA) Act.

3. As per the prosecution case, the appellants were



constructing house forcibly surrounding the way in front of the informant's house and on protest by the informant they began to abuse him by calling his caste name and assaulted him. The appellant no. 1 assaulted him with farsa on his head with intention to kill and when the informant's brother Rajdeo Sah Gaud came to save him then all the accused persons began to abuse and assault him and the appellants no. 2 and 3 wrapped wire around his neck and began to press it and when the informant's wife Meena Devi came, they abused her by calling caste name and assaulted her with fists and feet. The co-accused Devendra Thakur snatched gold chain worth Rs. 10,000/- from the neck of the informant's wife.

4. Learned counsel for the appellants submitted that the appellants are innocent and have falsely been 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 appellant. The appellants have no criminal antecedent as stated in para 3 of the appeal. There is land dispute between both the parties. There is a delay of two days in lodging the F.I.R. There is no injury report of the informant on the record as per impugned order. There is no repetition of blow. The appellant had no intention to kill the informant.

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 03.07.2023 passed by the learned Special Judge, SC/ST, (POA) East Champaran at Motihari in connection with A.B.P. No. 2507/2023, arising out of Palanwa P.S. Case No. 92 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 court of learned Special Judge, SC/ST, (POA) East Champaran at Motihari in connection with A.B.P. No. 2507/2023, arising out of Palanwa P.S. Case No. 92 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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