

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3272 of 2024

Arising Out of PS. Case No.-9 Year-2024 Thana- GARKHA District- Saran

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1. Manish Kumar @ Manish Rai, Son Of Chandra Bhushan Rai @ Chandra Bhushan Prasad Resident Of Village- Mahammda, P.S.- Garkha, Distt.- Saran
 2. Bipin Kumar @ Rajesh Rai, Son Of Chandra Bhushan Rai @ Chandra Bhushan Prasad Resident Of Village- Mahammda, P.S.- Garkha, Distt.- Saran
 3. Chandra Bhushan Prasad @ Chandra Bhushan Rai, Son Of Dhuna Rai Resident Of Village- Mahammda, P.S.- Garkha, Distt.- Saran

... .. Appellant/s

Versus

1. The State Of Bihar
2. Shiv Kumari, Wife Of Chhathu Ram Resident Of Village- Mahammda Tola, P.S.- Garkha, Distt.- Saran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Mili Kumari
For the Respondent/s	:	Ms.Usha Kumari 1- Spl. P.P. Mr.Vijay Kumar Srivastava

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 10-09-2024 1. Heard learned counsel for the appellants, the learned counsel appearing on behalf of the respondent no.2 and the learned Special Public Prosecutor for the State.

2. The appellants have challenged the order dated 21.05.2024 passed by the learned SC/ST Exclusive Special Judge, Chapra, Saran in connection with A.B.P. No.1760 of 2024, instituted for the offences under Sections 341, 323, 324, 447, 354(B), 504, 379 and 506 of the Indian Penal Code and Section 3(i)(r)(s), 3(2)(va) of the Scheduled Castes & Scheduled



Tribes (Prevention of Atrocities) Act, whereby his prayer for grant of anticipatory bail has been rejected.

3. The learned counsel appearing on behalf of the appellants submits that appellants are person with clean antecedent and have been falsely implicated in the instant case by the informant. It is further submitted that from perusal of the FIR, it would manifest that the date of occurrence is 23.12.2023 at 7.00P.M. and the instant FIR came to be instituted on 06.01.2024 i.e. after a delay of more than 13 days, which cast an aspersion on the case of the prosecution and at the same time, it appears that the informant with a view to implicate the appellants by way of after thought instituted the instant FIR. It is further submitted that from perusal of the allegation as alleged in the FIR, it would manifest that informant alleges that the accused persons including the appellants entered her house with face masked and assaulted the informant and her side, but then, it is submitted that the FIR does not even remotely suggest that the occurrence was witnessed by any independent witnesses, when so many family reside nearby. It is thus submitted that this perhaps explains why the FIR came to be instituted after a delay of 13 days as no such occurrence as alleged ever took place.

4. The the learned counsel appearing on behalf of the



respondent no.2 as well as the learned Special P. P. opposes the appeal, but then, are not in a position to rebut the submission of the learned counsel appearing on behalf of the appellants that appellants are persons with clean antecedent and the FIR came to be instituted after a delay of more than 13 days and the occurrence was not witnessed by any independent witnesses.

5. Regard being had to the aforesaid submissions, the order dated 21.05.2024 is set-aside.

6. The appeal stands allowed.

7. The appellants, above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs.5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of learned SC/ST Exclusive Special Judge, Chapra, Saran in connection with Garkha P. S. Case No.09 of 2024 (A.B.P. No.1760 of 2024), subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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