

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3572 of 2023

Arising Out of PS. Case No.-93 Year-2023 Thana- CHAPRA MUFFASIL District- Saran

NITISH KUMAR @ NITESH KUMAR Son of Surendra Prasad Ray R/o
Village Lohara, P.S. Saran (Mufassil), District-Saran at Chapra.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. Mithun Kumar Ram Mr. Moti Chand Ram R/V- Lohra, P.S.- Muffasil,
District-Saran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sumit Shekhar Pandey, Adv.
For the Respondent/s : Mr.Binay Krishna, Spl.PP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

6 06-12-2024 Heard learned counsel for the appellant 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 SC/ST/MP/MLA/MLC Exclusive Judge-cum-ADJ-3, Saran at Chapra in connection with Chapra Muffasil P.S. Case No. 93 of 2023, registered for the alleged offences under Sections 341, 323, 325, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(i)(r)(s), 3(2)(v) of the S.C./S.T. (POA) Act.

3. As per the prosecution case, the appellant and other co-accused persons are alleged to have abused the informant by calling his caste name and assaulted the informant with rod, *danda* on



account of idol immersion. When Manish Kumar Manjhi intervened, they assaulted him with danda, bricks and abused by calling caste name. They also assaulted Guriya Devi due to which she got injured.

4. Learned counsel for the appellant submitted that the appellant is innocent and have been falsely implicated in this case. The allegation of abusing against the appellant 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. There is case and counter case between the parties. It is further submitted that there is a land dispute between the parties. The co-accused person has already been granted anticipatory bail by this court vide order dated 29.03.2024 passed in Cr. Appeal (SJ) No. 3932 of 2023. The appellant has no criminal antecedent as stated in para 3 of the appeal.

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 appellant, the impugned order dated 20.06.2023 passed by the learned SC/ST/MP/MLA/MLC Exclusive Judge-cum-ADJ-3, Saran at Chapra in connection with Chapra Muffasil P.S. Case No. 93 of 2023, is set aside against the appellant. The criminal appeal is allowed.



7. Accordingly, the above named appellant, in the event of his arrest/ surrender before the learned court below within a period of twelve weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned SC/ST/MP/MLA/MLC Exclusive Judge-cum-ADJ-3, Saran at Chapra passed in ABP No. 913/ 2023, in connection with Chapra Muffasil P.S. Case No. 93 of 2023, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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