

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3606 of 2023

Arising Out of PS. Case No.-172 Year-2022 Thana- RAHIKA District- Madhubani

1. Md. Nasim, aged about 48 years (Male), S/O Md. Ilyas, Resident of Village- Izra, P.S.- Rahika, District- Madhubani.
2. Md. Mahfooj @ Md. Juhi, aged about 21 years (Male), S/O Md. Hira, Resident of Village- Izra P.S.- Rahika, District- Madhubani.

... .. Appellants

Versus

1. The State of Bihar.
2. Ram Prakash Paswan, S/O Late Rajendra Paswan, Resident of Vill.- Rajaura Dih, P.S.- Raiyam, Distt.- Darbhanga.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Kedar Jha, Advocate
For the Respondent No.2:	:	Mr. Ram Prakash Kumar, Advocate
For the State	:	Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 23-02-2024 Learned counsel for the appellants is directed to remove the defect(s) as pointed by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the appellants, learned counsel for the respondent no. 2 and learned Spl. P.P. for the State.

3. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act'), against the refusal of prayer of anticipatory bail of



the appellants vide order dated 18.07.2023, passed by the learned Ist Additional Sessions Judge-cum-Special Judge, Madhubani, in A.B.P. No. 1545 of 2023 in connection with G.R. No. 104 of 2022, arising out of Rahika P.S. Case No. 172 of 2022 registered for the offences punishable under Sections 341, 323, 324, 325, 307, 354B, 379, 384, 385, 504 and 506/34 of the I.P.C. and Sections 3(i)(r)(s)(wi)(wii) and 3(2)(v) of the SC/ST Act.

4. The prosecution case, in brief, is that all the F.I.R. named accused persons including the appellants alongwith 15-20 unknown persons assaulted the informant and while assaulting, they were uttering *Chor-Chor*. The accused persons also abused the informant by calling his caste name.

5. It is submitted by learned counsel for the appellants that the appellants are quite innocent and have falsely been implicated in the present case due to ulterior motive. There is general and omnibus allegation against the appellants. It is further submitted that in fact, the appellants and the informant are inhabitant of not only different village rather different district. No villager knew about his identity. The appellants learnt that in the village, a thief entered the premises of one villager and on hulla, many nearby people woke-up and came



out from their houses and one stranger pooled his body from oil dressed only underwear and shirt was caught, who was the thief, therefore, the thief was assaulted by the villagers and he disclosed the name of other associates but he did not disclose his name and others. When the Mukhiya and Surpach came, he disclosed his parentage address. Police also came and he was released on assurance that he will not again commit act of thief in future. He was treated by the doctor and he was found no any infirmity. It is further submitted that the occurrence took place on 16.08.2022 and the F.I.R. was lodged on 26.08.2022 for which no explanation has been given by the prosecution. The other co-accused persons have been granted anticipatory bail by another Co-ordinate Benches of this Court vide Cr. Appeal (SJ) No. 4395 of 2022 under order dated 18.05.2022 and Cr. Appeal (SJ) No. 2344 of 2023 under order dated 14.09.2023. It is further submitted that no member of public was present at the relevant point of time of the alleged occurrence. Hence, no offence under SC/ST Act is made out against the appellants. The appellants have clean antecedent as stated in paragraph no. 3 of the memo of appeal.

6. Learned Spl. P.P. for the State and learned counsel for the respondent no. 2 have opposed the prayer for



anticipatory bail of the appellants.

7. In view of the aforesaid facts and circumstances of the case, the impugned order dated 18.07.2023, passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani, in A.B.P. No. 1545 of 2023, in connection with G.R. No. 104 of 2022, arising out of Rahika P.S. Case No. 172 of 2022, is set aside against the appellants. The criminal appeal is allowed.

8. Accordingly, the above named appellants, in the event of their arrest or 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 the learned Ist Additional Sessions Judge-cum-Special Judge, Madhubani, in connection with G.R. No. 104 of 2022, arising out of Rahika P.S. Case No. 172 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Chandra Prakash Singh, J)

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