

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3639 of 2023

Arising Out of PS. Case No.-259 Year-2022 Thana- GORIAKOTHI District- Siwan

1. Tapan Prasad, Male, aged about 48 years, Son of Late Gorakh Prasad, R/O Village- Kokil Hata, P.S- Goreakothi, District – Siwan.
2. Shesh Nath Prasad, Male, aged about 43 years, Son of Late Gorakh Prasad, R/O Village- Kokil Hata, P.S- Goreakothi, District – Siwan.

... .. Appellants

Versus

1. The State of Bihar.
2. Ramawati Kunwar, Female, aged about 55 years, Wife of Pashuram Manjhi, R/O Village- Kokil Hata, P.S- Goreakothi, District – Siwan.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Ashok Kumar, Advocate
For the Respondent No.2:	:	None.
For the State	:	Mr. Binay Krishna, 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 07.06.2023, passed by the learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST Act, Siwan, in A.B.P. No. 1080 of 2023, in connection with Goreyakothi P.S. Case No. 259 of 2022, registered for the offences punishable under Sections 147, 148, 149, 323, 324, 354, 435, 448, 504, 506 of the I.P.C., 3/4 of the Witch Act and Sections 3(1)(x) of the SC/ST Act.

4. The prosecution case, in brief, is that the appellants and the co-accused persons are alleged to have abused the informant and humiliated her within public view at the public place on the alleged date and time of occurrence and set all her belongings on fire causing loss.

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. It is submitted that the alleged occurrence took place on 13.10.2019 and the complaint was filed on 02.03.2020 which came to be registered under Section 156(3) of the Cr.P.C. on 26.11.2022. It is further submitted that a land bearing Khata No. 414, Survey No. 4384, Rakba 10 dhurs is being used by the villagers including the appellants for rasta was encroached by the informant and her family members which was opposed by the



villagers and the appellants they filed a Case No. 18 of 2011-12 before the Gram Kachahari, Sadikplur Block, Goreyakothi, Siwan and the Gram Kachahari passed an order on 11.08.2012 in favour of the appellants and villagers. It is further submitted that the S.D.O., also initiated a proceeding under Section 107 of the Cr.P.C., against both the parties. 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 07.06.2023, passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Siwan, in A.B.P. No. 1080 of 2023, in connection with Goreyakothi P.S. Case No. 259 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 1st Additional Sessions Judge-cum-Special Judge, SC/St Act, Siwan, in connection with Goreyakothi P.S. Case No. 259 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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