

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3618 of 2023

Arising Out of PS. Case No.-13 Year-2023 Thana- BARACHATTI District- Gaya

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1. Vijay Kumar @ Vijay Yadav, (Male), aged about 45 years, S/o Sita Ram Yadav, Resident of vill - Khudua, P.S. - Mohanpur, Distt. - Gaya.
 2. Gauri Devi, Female, aged about 39 years, W/o Vijay Yadav, Resident of vill - Khudua, P.S. - Mohanpur, Distt. - Gaya.

... .. Appellants

Versus

1. The State of Bihar.
2. Sudha Devi @ Radha Devi, W/o Sankar Paswan, Resident of vill - Khudua, P.S. - Mohanpur, Distt. - Gaya.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Rajesh Mohan, Advocate
For the Respondent No.2:	:	Mrs. Shalu Sinha, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 23-02-2024 It has been submitted by learned counsel for the appellants that due to inadvertent mistake, in the order dated 01.12.2023, the order no. '2' has wrongly been typed in place of order no. '3'.

2. Considering the same, let in the order dated 01.12.2023, the order no. '3' be read in place of the order no. '2'.

3. Accordingly, the order dated 01.12.2023 is modified to the extent as indicated above.

4. 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.

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

6. 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 20.06.2023, passed by the learned Exclusive Special Judge, SC/ST, Gaya, in A.B.P. No. 194 of 2023 in connection with Barachatti P.S. Case No. 13 of 2023, registered for the offences punishable under Sections 341, 323, 325, 504/34 of the I.P.C. and Sections 3(1)(r)(s)(w) of the SC/ST Act.

7. The prosecution case, in brief, is that due to land dispute, Vijay Yadav (appellant no. 1) abused and assaulted the informant. When her son came to rescue her, Gauri Devi (appellant no. 2) and the other co-accused abused and assaulted him with lathi causing finger injury by calling his caste name. When her husband Shankar Paswan came to rescue them, the co-accused Sitaram Yadav and Baleshwar Yadav assaulted him.



Gauri Devi (appellant no. 2) assaulted the informant and her son with stones. Her son fell down on the ground due to injury. On hulla, the villagers assembled there then they saved their lives. The injured were treated at Mohanpur Hospital and thereafter they were referred to Gaya for better treatment.

8. 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 there is land dispute between the parties. No incriminating article has been recovered from possession of the appellants. It is further submitted that similarly situated co-accused persons have been granted anticipatory bail by another Co-ordinate Bench of this Court vide Cr. Appeal (SJ) No. 3553 of 2023 under order dated 06.12.2023. 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.

9. 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.

10. In view of the aforesaid facts and circumstances of the case, the impugned order dated 20.06.2023, passed by the learned Exclusive Special Judge, SC/ST, Gaya, in A.B.P. No. 194 of 2023, in connection with Barachatti P.S. Case No. 13 of 2023, is set aside against the appellants. The criminal appeal is allowed.

11. 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 Exclusive Special Judge, SC/ST Gaya, in connection with Barachatti P.S. Case No. 13 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Chandra Prakash Singh, J)

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