

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3685 of 2023

Arising Out of PS. Case No.-173 Year-2018 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

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1. Durgesh Tiwari Son Of Sheopujan Tiwari Resident Of Village- Kharanda, Ps- Belaon, Dist- Kaimur At Bhabua
 2. Sheopujan Tiwari Son Of Late Rajram Tiwari @ Bachana Tiwari Resident Of Village- Kharanda, Ps- Belaon, Dist- Kaimur At Bhabua
 3. Sheoshankar Tiwari Son Of Late Rajaram Tiwari @ Bachana Tiwari Resident Of Village- Kharanda, Ps- Belaon, Dist- Kaimur At Bhabua

... .. Appellant/s

Versus

1. The State of Bihar
2. Ramjee Paswan Son Of Late Chirkut Paswan Resident Of Village- Sonara, Ps- Belaon, Dist- Kaimur At Bhabua

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Kamala Kant Tiwary
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 15-03-2024 Heard learned counsel for the appellants 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 08.05.2023 passed by the learned Special Judge, SC/ST (Prevention of Atrocities), Kaimur at Bhabua in connection with A.B.P. No. 520/2023, arising out of Complaint SC/ST Case No. 173 of 2018, (Registration No. 16/2020) registered for the alleged offences under Sections 429, 435, 436, 323, 441, 444 of the Indian Penal



Code and Section 3(i)(w)(ii) and 3(2) (iii) (iv) (v) of the SC/ST (Prevention of Atrocities) Act.

3. As per the prosecution case, the appellants set the cow-shed of the informant on fire in which his some cows got burnt and their pump also got burnt. They also abused the informant by calling his caste name. The informant got loss of Rs. 15,000/-.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this case. The allegation of abusing against the appellants is general and omnibus and no member of public was present at the relevant point of time of the alleged occurrence, hence, no offence under the provisions of SC/ST Act is made out against the appellants. There is no specific allegation against these appellants. There is case and counter case between both the parties and there is also land dispute between both sides. The appellants have no criminal antecedent as mentioned 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 appellants.

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 appellants, the impugned order dated 08.05.2023 passed by the learned Special Judge, SC/ST (Prevention of Atrocities), Kaimur at Bhabua, in connection with A.B.P. No. 520/2023, arising out of Complaint SC/ST Case No. 173 of 2018, (Registration No. 16/2020) is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, in the event of their arrest/ 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 learned Special Judge, SC/ST (Prevention of Atrocities), Kaimur at Bhabua in connection with A.B.P. No. 520/2023, arising out of Complaint SC/ST Case No. 173 of 2018, (Registration No. 16/2020), subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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