

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3869 of 2023

Arising Out of PS. Case No.-233 Year-2022 Thana- KASBA District- Purnia

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1. Niraj Kumar @ Niraj Vishwas S/O Sri Hari Lal Vishwas @ Rajendra Vishwas @ Hari Vishwas R/O Village- Park Tola, P.S- Kasba, Distt.- Purnea.
 2. Kumar Saheb @ Kumar Vishwas S/O Sri Hari Lal Vishwas @ Rajendra Vishwas @ Hari Vishwas R/O Village- Park Tola, P.S- Kasba, Distt.- Purnea.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Gauri Devi W/O Bawari Ram R/O Village- Lakkhi Tola, Ward No.-3, Garhbanaili, P.S- Kasba, Distt.- Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Amit Kumar Anand, Adv.

For the Respondent/s : Ms. Usha Kumari 1, Spl. PP.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 10-01-2024 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

2. Learned Spl.PP. for the State submits that vide order dated 08.11.2023, he informed the complainant to appear in the present appeal through his counsel, but nobody appears on his behalf.

3. This is an appeal under Sections 14(A)(2) of the SC/ST (POA) Act, 1989 against the refusal of prayer of anticipatory bail vide order dated 08.08.2023 passed by learned Special Judge SC/ST, Act Purnea in connection with Kasba P.S. Case No. 233 of 2022 registered under Sections 147, 149, 341, 323, 307, 354, 427, 447, 448 and 504 of the I.P.C. and Section 3(1)(r)(s) and 3(2) (V-a) of the SC/ST Act.



4. Allegation against the appellants is that they have entered into the house of the informant and abused her by taking caste name and when she opposed, they brutally assaulted the informant.

5. It is submitted by learned counsel for the appellants that the appellants are quite innocent and have committed no offence as alleged. No such occurrence as alleged ever took place. It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. On perusal of the F.I.R., it is admitted land dispute between the parties, by virtue of the registered sale deed bearing no. 6952 dated 24.08.2022 has been transferred of seven decimal of land on the name of the appellants and since then they are in possession over the said land. Slating the informant/complainant in the name of caste is said to have been made at the house of the informant and not in public view, hence no offence under SC/ST Act is made out against the appellants. The learned lower Court has also not mentioned any injury in the impugned order after perusal of the case diary. Hence, no offence under SC/ST Act is made out against the appellants. Injury sustained by the victim in the occurrence is simple in nature. Appellants have no criminal antecedent as mentioned in para-3 of this memo of appeal.

6. Learned Spl. PP for the State opposed the prayer for bail.

7. In the facts and circumstances of the case, considering



the argument of the parties and on perusal of record it is evident that it is admitted land dispute, the above named appellants, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned 7th Addl. Sessions Judge-cum-Special Judge (POCSO) West Champaran, Betiiah in connection with Shikarpur P.S. Case No. 233 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

8. Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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