

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3939 of 2023

Arising Out of PS. Case No.-13 Year-2023 Thana- MAHILA PS District- East Champaran

1. Kunti Devi Wife Of Jiyalal Sah Resident Of Village - Jagirahan Bijbani, P.S. - Jitna (Ghorasahan), Distt. - East Chamapran
2. Jiyalal Sah Son Of Chhathu Sah Resident Of Village - Jagirahan Bijbani, P.S. - Jitna (Ghorasahan), Distt. - East Chamapran
3. Puja Kumari D/O Jiyalal Sah Resident Of Village - Jagirahan Bijbani, P.S. - Jitna (Ghorasahan), Distt. - East Chamapran
4. Nisha Devi Wife Of Vicky Sah R/O Vill - Sikta, P.S. - Sikta, Distt. - East Chamapran
5. Vicky Sah Son Of Prabhu Sah R/O Vill - Sikta, P.S. - Sikta, Distt. - East Chamapran

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Nitu Kumari D/o Munna Baitha @ Harendra Baitha R/o vill - Jagirahan Bijbani, P.s. - Ghorasahan, Distt. - East Chamapran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Abhishek Kumar
For the Respondent/s	:	Mr.Sadanand Paswan
For the Informant/s	:	Mr. Bhagya Narayan Jha

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 15-03-2024 Heard learned counsel for the appellants and learned counsel for the informant as well as learned Special Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer for anticipatory bail vide order dated 27.06.2023 passed by the learned Special



Judge, SC/ST (POA) Act, East Champaran, Motihari in connection with Mahila P.S. Case No. 13 of 2023 dated 16.03.2023 registered for the offence/s punishable u/s 376 and 420 read with 34 read with section of the Indian Penal Code and Sections 3(i)(r)(s), 3(2) va of the SC/ST Act.

3. As per the prosecution case, the co-accused person is alleged to have kidnapped the minor daughter of the informant for the purpose of marriage.

4. Learned counsel for the appellants has submitted that the appellant have falsely been implicated in this case due to ulterior motive. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the incident. There is no allegation of hurling of caste related abuse at the informant by the appellants. Learned counsel has further submitted that no particular caste name has been called by the appellants hence no case is made out under section SC/ST Act. The appellants have one criminal antecedent as stated at para 3 of the bail petition. The victim in her statement recorded u/s 164 of the Cr.P.C has stated that she went to the house of her mother's sister and nobody has kidnapped her. It is further submitted that the victim was not



forced to have illicit intercourse with another person. The appellant No. 1 and 2 are mother and father of the co-accused Akash Sah and the appellant No. 3 and 4 are sister of the co-accused Akash Sah and the appellant No. 5 is brother-in-law of the Akash Sah.

5. Learned counsel for the informant as well as learned Spl. P.P. for the State has vehemently opposed the anticipatory bail petition 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 27.06.2023 passed by learned Special Judge, SC/ST (POA) Act, East Champaran, Motihari in connection with Mahila P.S. Case No. 13 of 2023 , is set aside against the appellants. The criminal appeal is allowed.

7. 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 Special Judge, SC/ST (POA) Act, East Champaran, Motihari in connection



with Mahila P.S. Case No. 13 of 2023, subject to conditions as
laid down under section 438(2) of the Code of Criminal
Procedure.

(Chandra Prakash Singh, J)

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