

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3971 of 2023

Arising Out of PS. Case No.-283 Year-2023 Thana- BHABHUA District- Kaimur (Bhabua)

DILIP MALLAH @ DILIP CHOUDHARY SON OF CHEKHURY
CHAUDHARY R/O WARD NO 5 MALLAH TOIL, PS- MOHANIA, DIST-
KAIMUR

... .. Appellant/s

Versus

1. The State of Bihar
2. DIPAWALI KUMARI WIFE OF SUNIL PASAWAN VILLAGE-
PADHAUTI, PS- BHAGWANPUR, DIST- KAIMUAR AT BHABHUA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Arabind Nath Pandey, Adv.
For the Respondent/s : Mr.Binay Krishna, Spl.PP.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 24-01-2024 Heard learned counsels for the parties.

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

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 vide order dated 21.07.2023 passed by learned Additional Sessions Judge-1, Kaimur at Bhabhua in connection with SC/ST Bhabhua P.S. Case No. 283 of 2023 registered under Sections 341, 323, 324, 406, 504, 34 of the Indian Penal Code and



Section 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per the FIR, the husband of the informant had given Rs. 80,000/- to the appellant to do some work, but the accused-appellant neither done any work nor returned the money. After two years, he returned 20,000/- and when she went with her husband on 01.04.2023 for demanding the rest amount i.e. Rs. 60,000/-, he refused for the same. It is further alleged that when the informant went to her village on motorcycle with her husband, all the accused persons including the appellant stopped them near Industrial training Centre and started assaulting and abusing by taking caste name.

4. It is submitted by learned counsel for the appellant that appellant is quite innocent and has committed no offence. No such occurrence as alleged ever took place. It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. The allegation levelled against the appellant is totally false and based on concocted facts. There is no evidence or chit of paper on record to prove the fact that the informant had given Rs. 80,000/- to the appellant. There is inordinate delay of six days in lodging the case without assigning any plausible explanation for the said



delay which creates serious doubt about the prosecution case. The injuries sustained by the injured are simple in nature. Appellant has two criminal antecedents as mentioned in para-3 of this memo of appeal.

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

6. In the facts and circumstances of the case, as there is no evidence or chit of paper on record to prove the prosecution story true and there is delay in lodging the FIR, the above named appellant, 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 Additional Sessions Judge-1, Kaimur at Bhabhua in connection with SC/ST Bhabhua P.S. Case No. 283 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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