

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3590 of 2022

Arising Out of PS. Case No.-112 Year-2018 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. ASHOK SAH S/o Mahendra Sah Resident of village- Harsingpur Kothi, P.S.- Sarairanjan, District- Samastipur
 2. DINESH SAH S/o Mahendra Sah Resident of village- Harsingpur Kothi, P.S.- Sarairanjan, District- Samastipur
 3. PANKAJ SAH S/o Ashok Sah Resident of village- Harsingpur Kothi, P.S.- Sarairanjan, District- Samastipur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellants	:	Md. Hussamuddin Azad, Advocate
For the State	:	Ms. Usha Kumari No. 1, , Spl.PP
For the Complainant	:	Mr. Binay Krishna, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 05-09-2024 Heard learned counsels for the parties.

2. This appeal has been filed for setting aside order dated 18.08.2022, passed in a case registered for the offence punishable under Section 323 of the Indian Penal Code, Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Sections 3 and 4 of the Dian Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

3. As per the prosecution case, on 08.08.2018 at about 5 PM, while the complainant was returning home from village market and reached near the house of Appellant No. 1,



all the accused persons called the complainant *dian* and also stated that grand daughter of Appellant No. 1 is sick because of the complainant and thereafter, all the accused persons brought the complainant to their house and abused her by caste name and also assaulted her. Thereafter, Appellant No. 3 put liquid of stool in mouth of complainant and Appellant No. 2 made her naked.

4. It is submitted by learned counsel appearing on behalf of the appellants that appellants are innocent and have committed no offence. As a matter of fact, in a case bearing Sarairanjan P.S. Case No. 286 of 2016, Appellant No. 2 has deposed as P.W. 2 against one Roshan Giri and only with a view to save the skin from the aforesaid case, father of Roshan Giri, namely Rajkumar Giri @ Raju Giri, has got this false and fabricated case lodged against the appellants by his labour. It is further submitted that Rajkumar Giri @ Raju Giri himself is Witness No. 1 in the present complaint case. Moreover, it is not the case of the prosecution that any member of public was present at the time of incidence and as such, no case under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out. Appellants claims clean antecedents.



5. On the other hand, learned S.P.P. appearing on behalf of the State and learned counsel appearing on behalf of the complaint have vehemently opposed the prayer for grant of bail to this appellants.

6. Considering the aforesaid facts and circumstances of the case, this appeal is allowed and the impugned order dated 18.08.2022 passed by the Court of learned Special Judge, Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, Samastipur, in connection with A.B.P. No. 2487 of 2022 arising out of C.R. Case No. 112 of 2018 (T.R. No. 1568 of 2022) is hereby set aside with respect to these appellants only.

7. Accordingly, let the appellants, named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (POA) Act, Samastipur, in connection with A.B.P. No. 2487 of 2022 arising out of C.R. Case No. 112 of 2018 (T.R. No. 1568 of 2022).

(Prabhat Kumar Singh, J)

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