

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4119 of 2023

Arising Out of PS. Case No.-26 Year-2022 Thana- SC/ST District- Banka

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1. Mithlesh Yadav @ Mithilesh Kumar Yadav Son Of Anantram Yadav Resident Of Village -BHATKUNDI, Ps -BANKA, District- Banka
 2. Devenandan Yadav @ Devgauda Yadav Son Of Anantram Yadav Resident Of Village -BHATKUNDI, Ps -BANKA, District- Banka

... .. Appellant/s

Versus

1. The State of Bihar
2. Gita Devi Wife Of Pradeep Harijan Resident Of Village -Bhadrar, Ps And Dist- Banka

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sudhir Kumar Mishra
For the Respondent/s : Mr.Vinod Shanker Modi

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 05-04-2024 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 26.07.2023 passed by learned Additional Sessions Judge-1st-cum Special Judge, SC/ST Act, Banka in connection with Banka SC/ST P.S. Case No. 26 of 2022 dated 03.10.2022 registered for the offence/s punishable u/ss 147, 149, 323, 354B, 504 and 506 of the Indian Penal Code and Sections



3(i)(r)(s)/3(2)(va) of the SC/ST Act (POA) Act.

3. As per the prosecution case, the appellants and the co-accused persons holding *lathi-danda* came and started abusing by calling the caste name and started damaging the house of the informant. On being protested, all the accused persons started assaulting the informant with fists and slaps and the appellant no.1 outraged the modesty of the informant. Thereafter, the co-accused, Bhawan Yadav and Basuki Yadav assaulted the informant's husband, causing injury.

4. Learned counsel for the appellants has submitted that the appellant have falsely been implicated in this case due to ulterior motive. 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. There is a delay of 75 days in lodging the FIR. The appellants have no criminal antecedents as stated in para 3 of the bail petition.

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 26.07.2023 passed by learned Additional Sessions Judge-1st-cum Special Judge, SC/ST Act, Banka in connection with Banka SC/ST P.S. Case No. 26 of 2022, 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 Additional Sessions Judge-1st-cum Special Judge, SC/ST Act, Banka in connection with Banka SC/ST P.S. Case No. 26 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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