

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4132 of 2023**

Arising Out of PS. Case No.-22 Year-2023 Thana- KOTHI District- Gaya

SHAMSHAD MIYAN @ SAMSAD QURESHI SON OF ALLAUDDIN
MIYAN VILLAGE- GANGTI, PS- KOTHI, DIST- GAYA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. JHARO DEVI WIFE OF LATE INDRADEO BHARTI VILLAGE-
SOBADI TOLA, PATHRA, PS- KOTHI, DIST- GAYA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Md. Javed Jafar Khan
For the Respondent/s : Mrs. Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

3 31-01-2024 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. In compliance of the order dated 08.11.2023, learned
Spl.PP for the State informed the informant/complainant to
appear in the present case through his/her counsel but nobody
entered appearance on his/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 24.07.2023 passed by learned Exclusive
Special Judge, SC/ST Special Court, Gaya in connection with



Kothi P.S. Case No.22 of 2023, registered under Sections 341, 323, 504, 506/34 of the Indian Penal Code and Section 3(1) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. Allegedly, on the eve of Holi, the son of the informant and others were coming towards a school and when they reached near side of the village, the son of Jahid Khan was coming and during singing and dancing, particles of *Gulal* got spread on the body of Jahid Khan's son. Thereafter, the appellant and other co-accused persons came and started abusing and assaulting and caused injury to informant's son and others.

5. It is submitted by learned counsel for the appellant that 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. He has been falsely implicated in the case. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. There is no specific overt act against the appellant. The allegation of slating the informant levelled against the appellant is not specific rather general and omnibus in nature moreover all the occurrence took place inside a house and cannot be said to



be in public view. Hence, no offence under SC/ST Act is made out against the appellant. No one has sustained injury in the occurrence. Appellant has 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 as there is no specific overt act against the appellant, let 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 Exclusive Special Judge, SC/ST Special Court, Gaya in connection with Kothi P.S. Case No.22 of 2023, 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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