

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4270 of 2023

Arising Out of PS. Case No.-312 Year-2023 Thana- JOGAPATTI District- West Champaran

1. Pintu Kumar @ Pintu Sah Son Of Vishwanath Sah Resident Of Village- Nawalpur, Ps- Nawalpur District- West Champaran
2. Mintu Kumar @ Mintu Sah Son Of Vishwanath Sah Resident Of Village- Nawalpur, Ps- Nawalpur District- West Champaran
3. Niranjana Sah @ Ranjan Kumar @ Niranjana Kumar Son Of Late Moti Sah Resident Of Village- Chandraha, Rupwalia, Ps- Bathuwariya, Distt- West Champaran
4. Vishun Sah Son Of Late Moti Sah Resident Of Village- Chandraha, Rupwalia, Ps- Bathuwariya, Distt- West Champaran
5. Anil Sah Son Of Late Moti Sah Resident Of Village- Chandraha, Rupwalia, Ps- Bathuwariya, Distt- West Champaran
6. Priyanka Devi Wife Of Niranjana Sah @ Ranjan Kumar Resident Of Village- Chandraha, Rupwalia, Ps- Bathuwariya, Distt- West Champaran
7. Ritu Devi Wife Of Vishun Sah Resident Of Village- Chandraha, Rupwalia, Ps- Bathuwariya, Distt- West Champaran
8. Niranjana Kumar @ Niranjana Sah Son Of Swaminath Sah Resident Of Village- Nawalpur Ps- Yogapatti District -West Champaran

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. Laldev Das (Probationer Police Sub Inspection) Son Of Late Pun Das Resident Of Village- Menka, Ps- Imamganj, Distt- Gaya Presently Posted As Probationer Police Sub Inspector, Ps- Nawalpur Op, Distt- West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey, Adv.
For the Respondent/s : Mr.Usha Kumari 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 05-04-2024 Heard learned counsel for the appellants and learned Spl.P.P. for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)



Act (hereinafter in short referred to as the 'SC/ST Act') against the rejection of prayer for anticipatory bail of the appellants vide order dated 19.08.2023 passed by the learned Additional District and Sessions Judge 1st cum Special Judge, (SC/ST), Bettiah, West Champaran in connection with Yogapatti (Nawalpur) P.S. Case No. 312 of 2023 dated 12.07.2023 registered for the alleged offences under Sections 147, 148, 341, 323, 307, 332, 188, 353, 224, 225, 504, 506 of the Indian Penal Code and Sections 3(i)(r)/ 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the informant and other police personnel reached Nawalpur and arrested the accused Vishwanath Sah at his house, in the meantime, the police personnel was searching witnesses then the appellants and the co-accused persons armed with Hasua and bamboo stick came there and assaulted them. On seeing the plate's name of the informant, the accused persons abused him by calling his caste name. It is further alleged that the co-accused, Poonam Devi assaulted the informant with hasua with intent to kill but the informant saved himself anyhow. Thereafter, the accused persons got Viswanath Sah released from the police custody and fled away from the spot.

4. Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in this case. The informant has alleged that the co-accused, Poonam Devi caused



injury by Hasua but neither the informant nor the police personnel have sustained any injury and there is no any injury report on record. There is no specific allegation against the appellants. The allegation of abusing against the appellants is general and omnibus and no member of public was present at the relevant point of time of the incident and hence, no offence under the provisions of SC/ST Act is made out against the appellants. The appellants have no concern with the alleged offence. The appellants have no criminal antecedent as stated in para 3 of the bail petition.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for anticipatory bail of the appellants.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellants, the impugned order dated 19.08.2023 passed by the learned Additional District and Sessions Judge 1st cum Special Judge, (SC/ST), Bettiah, West Champaran in connection with Yogapatti (Nawalpur) P.S. Case No. 312 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/ 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 District and Sessions Judge 1st cum Special Judge, Bettiah, West Champaran in connection with Yogapatti (Nawalpur) P.S. Case No. 312 of 2023, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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