

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4385 of 2023

Arising Out of PS. Case No.-35 Year-2023 Thana- BARH District- Patna

-
1. AJAY MAHTO SON OF BISO MAHTO RESIDENT OF VILLAGE- BARKI JAMUNICHAK, PS- BARH, DISTT- PATNA
 2. BIRENDRA KUMAR @ SARO KUMAR SON OF AWDHESH MAHTO RESIDENT OF VILLAGE- BARKI JAMUNICHAK, PS- BARH, DISTT- PATNA
 3. SATYENDRA MAHTO SON OF BISO MAHTO RESIDENT OF VILLAGE- BARKI JAMUNICHAK, PS- BARH, DISTT- PATNA
 4. HARE RAM MAHTO SON OF RAJENDRA MATHO RESIDENT OF VILLAGE- BARKI JAMUNICHAK, PS- BARH, DISTT- PATNA
 5. BALRAM MAHTO @ BALRAM KUMAR @ SAMIR MAHTO@ SAMIR KUMAR SON OF SURENDRA MAHTO RESIDENT OF VILLAGE- BARKI JAMUNICHAK, PS- BARH, DISTT- PATNA
 6. SUJIT KUMAR SON OF SURENDRA MAHTO RESIDENT OF VILLAGE- BARKI JAMUNICHAK, PS- BARH, DISTT- PATNA

... .. Appellant/s

Versus

1. The State of Bihar
2. VISHAL KUMAR SON OF LATE ROHAN CHOUDHARI RESIDENT OF VILLAGE- BARKI JAMUNICHAK, PS- BARH, DISTT- PATNA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajeev Ranjan No.II
For the Respondent/s : Mr. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 16-12-2024 1. Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.
2. An order, dated 02.09.2023, passed by learned Exclusive Special Judge, SC/ST, Patna, in ABP No. 6839 of 2023, is under challenge in the present appeal preferred under Section 14-A (2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, whereby the



anticipatory bail application of the appellant in connection with Barh Police Station Case No. 35 of 2023 registered for the offence punishable under Sections 147/149/323/325/504/506 of the Indian Penal Code and Section 3 (1)(r)(s) of the Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, has been rejected.

3. The prosecution case, as per the First Information Report, is that on 16.01.2023, the appellants, along with other accused persons, assaulted the informant's brother and one Dharmendra Choudhary by means of lathi, danda, iron-rod, etc, as a result, they sustained injuries and other accused persons abused the informant and his family members by their caste name.
4. Learned counsel for the appellants submits that the appellants have falsely been implicated in the present case due to quarrel between their children. He next submits that present case is counter-blast to the First Information Report lodged by the side of the appellants against the informant and others, bearing Barh Police Station Case No. 34 of 2023, which is prior in time to the present First Information Report. He further submits that despite injury report having been called by this Court, prosecution has



failed to bring it on records. He also submits that caste based abuse has not been made by the appellants, but by the co-accused persons, which was not in full public view.

5. Learned Special Public Prosecutor for the State appears and submits that notice has already been sent to the respondent no. 2, but no one appears on behalf of respondent no. 2. Learned counsel, however, submits that no injury report has been furnished by the Investigating Officer inasmuch as the same is not referred in the case diary.
6. Having regard to the submissions made on behalf of the parties and taking into consideration the fact that both the parties are co-villagers having dispute on trivial issue, case and counter-case is there and the prosecution failed to produce injury report, I am inclined to grant the appellants privilege of anticipatory bail.
7. This appeal is, accordingly, allowed and the order, dated 02.09.2023, passed by learned Exclusive Special Judge, SC/ST, Patna, in ABP No. 6839 of 2023, is set aside.
8. Let the appellants, above named, in the event of their arrest or surrender before the Court below within four weeks, be released 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 Exclusive Special Judge, SC/ST, Patna, in connection with Barh Police Station Case No. 35 of 2023, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

ashwani/-

U		T	
---	--	---	--

