

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4513 of 2023

Arising Out of PS. Case No.-97 Year-2023 Thana- NAUTAN District- Siwan

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1. Amlesh Dubey @ Amlesh Kumar Dubey Son Of Late Harishankar Dubey Resident Of Village - Shahpur, P.S. - Nawtan, District - Siwan
 2. Brijeshwar Kumar Dubey @ Bijeshwar Kumar Dubey @ Atul Dubey Son Of Anand Shankar Dubey Resident Of Village - Shahpur, P.S. - Nawtan, District - Siwan
 3. Vikash Dubey @ Vikash Chandra Dubey Son Of Bipin Bihari Dubey Resident Of Village - Shahpur, P.S. - Nawtan, District - Siwan
 4. Vishal Dubey @ Vishal Kumar Dubey @ Abhishek Kumar Dubey @ Abhishek Dubey Son Of Amlesh Kumar Dubey Resident Of Village - Shahpur, P.S. - Nawtan, District - Siwan

... .. Appellant/s

Versus

1. The State Of Bihar
2. Rajnish Gond Son Of Late Jai Prakash Gond Resident Of Village - Shahpur, P.S. - Nawtan, District - Siwan

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shyameshwar Kumar Singh
For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 24-04-2024 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 against the refusal of prayer for anticipatory bail vide order dated 25.08.2023 passed by the learned court of 1st Additional Sessions Judge-cum-Special Judge, Scheduled Caste/Scheduled Tribes Act, Siwan in connection with Nawtan P.S. Case No. 97 of 2023, registered for



the alleged offences under Sections 147, 341, 323, 324, 379, 504, 506 of the Indian Penal Code and Sections 3(i)(r)(s), 3(2) (v) of the SC/ST (Prevention of Atrocities) Act, 1989.

3. As per the prosecution case, the co-accused persons including the appellants and 5-7 unknown miscreants armed with pistol, *lathi*, *farsa*, Hockey stick, rod and sword are alleged to have reached near the informant and the co-accused Prabhat Pandey fired on the informant towards his right side but the informant escaped. When the informant tried to leave the co-accused Umesh Dubey grabbed the informant's hair and pushed him on the ground and threatened while the co-accused Amlesh Dubey hit the shoulder of the informant. Further the appellants no. 3 & 4 tried to strangle the neck of the informant. It is further alleged that the appellant no. 2 hit Arun Dubey on his head with a rod due to which Arun Dubey sustained head injury. The co-accused Dhiraj Dubey hit Arun Dubey's head with a sword due to which Arun Dubey sustained head injury.

4. Learned counsel for the appellants has submitted that the appellant is innocent and has falsely been implicated in this case. 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 appellant no. 1 has one criminal antecedent in which he is on bail and the appellants no.



2 to 4 have no criminal antecedent as stated in para 3 of the appeal. There is case and counter case. There is also land dispute between both the parties. There is no specific allegation against the appellant rather the allegation is general and omnibus in nature. The nature of injury is found to be simple in nature annexed as Annexure-4 series.

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 learned counsel for the appellant, the impugned order dated 25.08.2023 passed by the learned court of 1st Additional Sessions Judge-cum-Special Judge, Scheduled Caste/Scheduled Tribes Act, Siwan in connection with Nawtan P.S. Case No. 97 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 learned court of 1st Additional Sessions Judge-cum-Special Judge, Scheduled Caste/Scheduled Tribes Act, Siwan in connection with Nawtan P.S. Case No. 97 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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