

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4649 of 2023

Arising Out of PS. Case No.-25 Year-2023 Thana- SC/ST District- Madhepura

MD. JAMSHED @ TAKLUM SON OF MD. ALLADIN @ MD.
ALLAUDDIN R/O VILLAGE- DIGHARA WARD NO. 15, P.S.-
MADHEPURA, DISTRICT- MADHEPURA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. RAWIYA DEVI WIFE OF GUDAR SAHA R/O VILLAGE- DIGHRA,
WARD NO. 15, P.S.- MADHEPURA (O.P. GHAILAR), DIST.-
MADHEPURA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dinesh Prasad Verma, Advocate
For the Respondent/s : Ms. Usha Kumari-1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 13-03-2024

1. Heard learned counsel for the parties.

2. This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 16.09.2023 in A.B.P. No. 1280 of 2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Madhepura in connection with Madhepura SC/ST P.S. Case No. 25 of 2023 registered under Sections 341, 323, 379, 504 and 506/34 of the Indian Penal Code as well as Sections 3(1)(r)(s) (w) and 3(2)(va) of the SC/ST Act.

3. Learned counsel for the appellant submits that



appellant is a person with clean antecedent and has been falsely implicated in the present case by the informant. It is further submitted that from bare perusal of the allegation as alleged in the FIR, it would manifest that the informant alleges that on 28.07.2023 her son who sells vegetable was assaulted by this appellant on account of which he fell unconscious and thereafter the appellant also took his mobile and destroyed the computerized weighing machine and also destroyed the vegetables of Rs.5,000/- thereafter the injured was taken to the Primary Health Centre.

4. Learned counsel for the appellant submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the informant is not an eyewitness to the occurrence. It is further submitted that though it is alleged that the occurrence took place on 28.07.2023 but then the FIR came to be instituted on 14.08.2023 i.e. after a delay of more than sixteen days of the occurrence which casts as aspersion on the case of the prosecution. It is next submitted that though there is allegation of assault based on which the injured became unconscious and was taken to the Primary Health Centre for treatment but then if the injured would have been really injured and would have been taken to the Primary Health Centre in that



event the Doctors would have been informed the police that a patient in injured condition on account of assault has been admitted but then that is not the case. Learned counsel also submits that as far as the allegation under the SC/ST Act is alleged, the same also in the nature of allegation is not made out. It is submitted that no one had seen the occurrence. It is further submitted that from perusal of the order impugned, it would manifest that the same has also not recorded about injury report which prima facie goes to demonstrate that the injured was never assaulted.

5. Learned Special Public Prosecutor opposed the prayer for anticipatory bail and submits that notices be issued to the opposite party no. 2.

6. Since there is delay in instituting the FIR as such the order impugned is set aside. Let the appellant, above named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.5,000/- (rupees five thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under



Section 438(2) of the Code of Criminal Procedure.

7. Accordingly, the impugned order is set aside and
this appeal stands allowed.

(Satyavrat Verma, J)

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