

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4672 of 2023

Arising Out of PS. Case No.-240 Year-2021 Thana- FATEHPUR District- Gaya

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1. RAHUL KUMAR S/O UMESH SINGH VILLAGE- POWA, PS. FATEHPUR, DIST. GAYA
 2. RAUSHAN KUMAR S/O UDAY SINGH VILLAGE- POWA, PS. FATEHPUR, DIST. GAYA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. DHARMENDRA PASWAN S/O LALAN PASWAN VILLAGE- POWA, PS. FATEHPUR, DIST. NALANDA

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Anil Kumar No.1, Advocate
For the State	:	Mr. Sadanand Paswan, , Spl.PP
For Respondent No. 2	:	N o n e

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 08-08-2024 Heard learned counsel appearing for the appellants and learned Special Public Prosecutor appearing for the respondent-State.

2. Despite valid service of notice, no body appears on behalf of Respondent No. 2.

3. This appeal has been filed for setting aside order dated 08.05.2023 passed in a case registered for the offence punishable under Sections 341, 323, 324, 379, 504, 506 and 34 of the Indian Penal Code and Section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of these appellants has



been rejected.

4. The prosecution case in brief is that on 18.07.2021 at about 8:30 PM, all the F.I.R. named accused persons, including these appellants, assaulted informant by means of lathi, belt and bricks, as a result of which he received injuries on head. It is further alleged that they also abused him by caste name.

5. It is submitted by learned counsel appearing on behalf of the appellants that F.I.R. has been lodged after delay of 6 days and there is no explanation for the same, which itself casts doubt over the veracity of the prosecution case. Allegation of assault is general and omnibus and there is no specific allegation of overt act against these appellants. It is further submitted that it is not the case of the prosecution that any member of the public was present at the place of incidence and as such, no case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against this appellant. Appellants claim clean antecedents.

6. Learned Spl. P.P. appearing for the respondent-State has opposed the prayer for grant of bail to the appellants.

7. Considering the aforesaid facts and circumstances of the case, this appeal is allowed and the impugned order dated



08.05.2023 passed by the learned Exclusive Special Judge, SC/ST, Gaya, in connection with A.B.P. No. 147 of 2023 arising out of Fatehpur P.S. Case No. 240 of 2021 is hereby set aside with respect to this appellant only.

8. Accordingly, let the appellant, named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST, Gaya, in connection with A.B.P. No. 147 of 2023 arising out of Fatehpur P.S. Case No. 240 of 2021.

(Prabhat Kumar Singh, J)

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