

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4689 of 2023

Arising Out of PS. Case No.-37 Year-2023 Thana- SC/ST District- East Champaran

1. BRAJ KISHOR PRASAD Son of Late Sita Ram Sah Resident of Village - Pakhanahiya, P.S.- Palanwa, District - East Champaran.
2. ARUN KUMAR @ ARUN KUMAR GUPTA Son of Nand Kishor Prasad @ Nand Kishor Gupta Resident of Village - Pakhanahiya, P.S.- Palanwa, District - East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. RAJESH RAM S/o Bihari Ram Resident of Village - Pakhanahiya, P.S.- Palanwa, District - East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Madhurendra Kumar , Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, SPP
For OP 2	:	Rikesh Kumar , Advocate
		Rakesh Kumar , Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 09-05-2024 Heard learned counsel for the parties.

2. This appeal has been filed for setting aside order dated 21.08.2023 , passed in a case registered for the offence punishable under sections 147, 341 , 323 , 504, 506 and 34 of the Indian Penal Code and sections 3 3(i)(r)(s)(z)/ 3(2) (va) of the Scheduled Castes and Scheduled Tribes (POA) Act 2015 , whereby the prayer for anticipatory bail of the appellants has been rejected.

3. As per F.I.R., these appellants abused the informant and his brother by caste name and assaulted his



brother by fat and fist.

4. It is submitted on behalf of the appellants that they are innocent and have falsely been implicated in this case due to ulterior motive of the informant. As a matter of fact, the land bearing Khata No. 11, plot no. 741 area 81/2 dhur land, was purchased by the appellant from the Khatiyani Raiyat Rajeev Ranjan Prasad Srivastav, and the sale deed was in favour of the wife of the appellant No. 1, in which on the western boundary, a 61/2feet road is mentioned, and the informant illegally encroached on the same. Then the appellant No. 1 filed an application before the Circle Officer, Ramgarhwa East Champaran, vide order containing Memo No. 236 dated May 10, 2023, who recommended to initiate proceeding under Section 144 of Cr. P. C. and on May 16, 2023, the S.D. O Raxaul initiated proceeding under Section 144 Cr. P.C against the appellants. Being aggrieved by this appellant, the informant lodged this false and concocted case. Admittedly, there is dispute between the parties over a pathway . It is not the case of the prosecution that any member of public was present at the time of incident, as such, no case under SC/ST Act is made out. Appellants claim clean antecedent.

5. Counsel for the Spl. P P and OP 2 oppose the



prayer for bail.

6. Considering the aforesaid facts, this appeal is allowed with respect to these appellants only and the impugned order is set aside. Let the appellants, 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) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/St Act, East Champaran , Motihari in connection with SC/ST Motihari SC / ST Police Station Case No. 37 of 2023 .

(Prabhat Kumar Singh, J)

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