

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4656 of 2023

In
CRIMINAL MISCELLANEOUS No.39849 of 2023

Arising Out of PS. Case No.-848 Year-2020 Thana- FATUA District- Patna

-
-
1. KARAN KUMAR SON OF SANJAY YADAV R/O VILLAGE- BAREYAN KALAN, P.S.- FATUHA, PATNA- 803201
 2. SANJAY YADAV SON OF JAYKISHUN YADAV R/O VILLAGE- BAREYAN KALAN, P.S.- FATUHA, PATNA- 803201

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. Arjun Paswan S/o Late Hajari Paswan R/O-Bariyakala, P.O.-Daulatpur, Gandhi Tola, P.S.-Fatuha, District-Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pintu Kumar Patel, Adv. Mr. Bablu Kumar, Adv. Mr. Gaurav Kumar, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 30-01-2024 Heard the parties.

2. The present appeal has been filed against the order dated 13.04.2023 passed by learned Special Judge, SC/ST Act, Patna whereby the prayer for bail of the appellants in connection with Fatuha P.S. Case No. 848 of 2020 corresponding to Special Case No. 504 of 2020 for the offence punishable under Sections 341, 323, 325, 379, 504/34 of the Indian Penal Code and Sections 3(1)(r)(s) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act was rejected.

3. As per prosecution case, appellants and four to five



unknown persons encircled the informant's son and abused him calling his caste name. When the same was protested by the informant's son, appellants and other started assaulting him. It is alleged that appellant no. 1 Karan Kumar assaulted the informant's son by means of butt of pistol as a result of which informant's son sustained injury on head and teeth. It is further alleged that when informant reached there, he was also assaulted by the accused persons. It is further alleged that appellant no. 2 Sanjay Yadav took out Rs. 4500/- from the pocket of informant's son.

4. Learned counsel for the appellants submits that appellants are innocent and they have committed no offence as alleged in the FIR and they have falsely been implicated in this case. Appellants are in custody since 03.03.2023 and bear no criminal antecedent. Charge-sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Learned counsel orally submits that although there is allegation of assaulting the informant's son by means of butt of pistol but no fracture was seen in the injury report of the informant's son. He further submits that there is no allegation of repetition of blow upon the vital part of the body against the appellant no. 1. He further submits that allegation



against the appellant no. 2 is merely superficial in nature, which is ornamental just to make the offence graver.

5. Learned Special Public Prosecutor for the State vehemently opposed the prayer of bail of the appellant.

6. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, period of custody, charge-sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated 13.04.2023 passed by learned Special Judge, SC/ST Act, Patna in connection with Fatuha P.S. Case No. 848 of 2020 corresponding to Special Case No. 504 of 2020 is set aside.

7. The appellant is directed to be enlarged on bail in connection with Fatuha P.S. Case No. 848 of 2020 corresponding to Special Case No. 504 of 2020 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, Patna, subject to following conditions:-

(i) One of the bailors shall be either father or mother



or sister or brother or wife or the person who has sworn the affidavit in the instant appeal.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

shahzad/-

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

