

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4863 of 2023

Arising Out of PS. Case No.-11 Year-2023 Thana- SC/ST District- Aurangabad

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1. Kundan Kumar @ Kundan Kumar Singh Son Of Arun Singh Resident Of Village - Karhara, Ps- Aurangabad Muffasil, Distt- Aurangabad
 2. Birju Singh Son Of Late Mungeshwar Singh Resident Of Village - Karhara, Ps- Aurangabad Muffasil, Distt- Aurangabad
 3. Nitesh Kumar Singh @Nitish Kumar Singh Son Of Birju Singh Resident Of Village - Karhara, Ps- Aurangabad Muffasil, Distt- Aurangabad

... .. Appellant/s

Versus

1. The State Of Bihar
2. Abhay Kumar Son Of Late Janeshwar Ram Resident Of Village - Rajpur , Ps- Aurangabad Muffasil, Distt- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Aman Vishal , Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 27-06-2024 Despite valid service of notice , nobody appears on behalf of respondent No. 2.

2. This appeal has been filed for setting aside order dated 16.08.2023 , passed in a case registered for the offence punishable under sections 341, 323, 379, 504, 506, and 34 and other allied sections of the Indian Penal Code and sections 3(i)(r), 3(1)(s)/3(2)(v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for anticipatory bail of the appellant has been rejected.

3. As per the prosecution case , on the alleged date



and time of occurrence when the informant was returning to home, in the meanwhile, all the accused persons including these appellants assaulted him with bat and fists and also abused the informant by caste name .

4. It is submitted that F.I.R. has been lodged after the delay of 16 days for which there is no reasonable explanation. The real fact is that on 10.06.2023, appellant No. 3, while returning home after playing football, was brutally assaulted by *Abhayanand Ram @ Abhay Kumar* (the informant of the present case) and his associates, and these persons also took cash from appellant No. 3 and also damaged his motorcycle, for which *Brij Singh* (appellant No. 2) lodged a case in *Aurangabad Muffasil* Case No. 260 of 2023 against the informant sides. It is not the case of the prosecution that any member of the public was present at the time of incident; As such, no case under the SC/ST Act is made out. Appellants claim clean antecedent.

5. Counsel for the parties oppose the prayer for bail.

6. Considering the aforesaid facts, this appeal is allowed 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-cum- Ist Additional District and Sessions Judge, Auranganad in connection with A.B.P. No. 1326 of 2023 Police Station Case No. 11 of 2023 .

(Prabhat Kumar Singh, J)

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