

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4768 of 2023

Arising Out of PS. Case No.-26 Year-2023 Thana- SC/ST District- Gopalganj

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1. SHAMSHAD ALI @ ALAM @ SHAMSHAD ALAM SON OF SHAFIULLAH @ SHAFIULLAH MIAN RESIDENT OF VILLAGE- JAGMALAWA, PS- THAWA, DISTT- GOPALGANJ
 2. MAHTAB ALAM @ NAWKA BABU @ NAUKA BABU SON OF SHAFIULLAH @ SHAFIULLAH MIAN RESIDENT OF VILLAGE- JAGMALAWA, PS- THAWA, DISTT- GOPALGANJ
 3. AMAN ALI @ SAIFULLAH SON OF AFTAB ALAM RESIDENT OF VILLAGE- JAGMALAWA, PS- THAWA, DISTT- GOPALGANJ

... .. Appellant/s

Versus

1. The State of Bihar
2. DULARCHAND RAM SON OF SATYANARAYAN RAM RESIDENT OF VILLAGE- BEDU TOLA NASIPAR, PS- THAWA, DISTT- GOPALGANJ

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Prashant Kumar , Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl PP
For respondent No. 2	:	Mr. Indrajeet Bhushan, Advocate
		Mr. Manish Kumar , Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 16-05-2024 Heard learned counsel for the parties.

2. This appeal has been filed for setting aside order dated 22.08.2023 passed in a case registered for the offence punishable under sections 341, 323, 324, 354, 307, 504, 506, and 34 and other allied sections of the Indian Penal Code and sections 3(i)(r)(s)(w)/3(2)(va) 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 . Prosecution case, in brief, is that on the alleged date and time of occurrence , when the informant was sitting at the door of his house, meanwhile all the accused persons including these appellants came there and appellant No. 1 assaulted him on his head by means of knife and co-accused *Shafi Alam* assaulted him with knife causing injury on his eye and head, appellant No. 2 assaulted the mother of the informant with *Fattha* and appellant No. 3 *Aman Ali* along with 10-15 unknown persons assaulted to *Bhabhi* of the informant and one *Sheshnath Ram*. It is further alleged that due to dispute over property between them these appellants abused the informant by caste name .

4. It is submitted on behalf of the appellants that they are innocent and have committed no offence as alleged. Informant has lodged this case in order to save himself from the case lodged by one *Saif Alam* against the informant and others. Appellants are not the residents of *Nasipar*. The appellant no. 1 and 2 manage a poultry farm in the village where the informant and others had arrived in an inebriated condition and demanded extortion. When the appellants refused to pay the extortion, they were assaulted for which Thawe P.S. Case No. 163 of 2023 was lodged by these appellants against the informant and others.



Injury allegedly caused by these appellants are simple in nature. It is not the case of the prosecution that the alleged incident took place within the public view, and as such, no offence under SC/ST Act is made out. Appellants claim clean antecedent.

5. Learned counsel for the respondent no. 2 opposes 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 Additional Sessions Judge-XI cum Exclusive Special Judge (SC/ST Act), Gopalganj in connection with Gopalganj SC/ST Police Station Case No. 26 of 2023.

(Prabhat Kumar Singh, J)

Koushik/Ankit-

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