

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4920 of 2023

Arising Out of PS. Case No.-261 Year-2023 Thana- KALYANPUR District- East Champaran

1. Ashraf Ali S/O S.K. Yahiya Village- Meghua, Ps. Kalyanpur, Dist. East Champaran
2. Md. Murtaza Alam @ Murtuza Ali S/O Ashraf Ali Village- Meghua, Ps. Kalyanpur, Dist. East Champaran
3. Mahboob Alam @ Mahboob Ali S/O S.K. Moin Akhtar Village- Meghua, Ps. Kalyanpur, Dist. East Champaran
4. Taufique Ahmad @ Taufik Ahmad S/O Iftekhar Ahmad Village- Meghua, Ps. Kalyanpur, Dist. East Champaran
5. Monjajam Alam @ Monjajam S/O Iftekhar Ahmad Village- Meghua, Ps. Kalyanpur, Dist. East Champaran

... .. Appellant/s

Versus

1. The State Of Bihar Bihar
2. Yogendra Ram S/O Laxaman Ram Village- Meghua, Ps. Kalyanpur, Dist. East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Dhurendra Kumar, Adv.
For the Informant	:	Mr. Rananjay Kumar, Adv.
		Md. Asif Kalim, Adv.
For the Respondent/s	:	Mr. Usha Kumari 1, Spl. pp

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 05-01-2024 Heard learned counsel for the appellants and learned counsel for the informant as well as learned Special Public Prosecutor for the State.

2. Learned counsel for the appellants seeks permission to withdraw the present application for the appellant no. 1 and 2 namely, Ashraf Ali and Md. Murtza Alam @ Murtuza Ali.

3. Permission is accorded.



4. Accordingly, the present application for the appellant no. 1 and 2 namely, Ashraf Ali and Md. Murtza Alam @ Murtuza Ali is dismissed as withdrawn.

5. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the rejection of prayer for anticipatory bail vide order dated 26.09.2023 passed by the learned Special Judge, SC/ST (POA) Act, East Champaran, Motihari in A.B.P. No. 4326 of 2023 arising out of Kalyanpur P.S. Case No. 261 of 2023 dated 24.07.2023 registered for the offence/s punishable u/ss 341, 323, 324, 354, 307 read with section 34 of the Indian Penal Code and sections 3(i)(r)(s) SC/ST (POA) Act.

6. As per the prosecution case, the appellants and the co-accused persons are alleged to have demanded Rs. 8 lakhs and abused the informant by calling his caste name. On being objected, all the accused persons assaulted him and when her wife came to rescue, they also assaulted her with *Lathi*, *Danda* and *Farsa* with intention to kill. Thereafter, the co-accused Nesar Ahmad assaulted her with *Farsa* on her head due to that she got injured severely and fell down. When the other family members of the informant came to rescue, all the accused persons also assaulted them and the accused Murtuja Ali



dragged the wife of the informant by catching her Saree and disrobed her.

7. Learned counsel for the appellants has submitted that the appellants have falsely been implicated in this case due to ulterior motive. There is general and omnibus allegation against the appellants. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time alleged occurrence. The said incident took place at the house of the informant. No member of public was present at the relevant point of time of the incident. The FIR does not disclose that the appellants belong to other than Scheduled Castes and Scheduled tribes. Learned counsel has further submitted that no specific caste name has been called by the appellants hence no case is made out under section SC/ST Act. The appellants have no criminal antecedents as stated at para 3 of the bail petition.

8. Learned counsel for the informant as well as learned Spl. P.P. for the State has vehemently opposed the anticipatory bail petition of the appellants.

9. In view of the aforesaid facts and circumstances of the case as well as finding some substance in the contention of the learned counsel for the appellants, the impugned order dated 26.09.2023 passed by the learned Special Judge, SC/ST (POA)



Act, East Champaran, Motihari in A.B.P. No. 4326 of 2023 arising out of Kalyanpur P.S. Case No. 261 of 2023, is set aside against the appellant No. 3, 4 and 5 . The criminal appeal is allowed.

10. Accordingly, the above named appellant no. 3, 4 and 5, namely, Mahboob Alam @ Mahboob Ali, Taufique Ahmad @ Taufik Ahmad and Monjajam Alam @ Monjajam respectively in the event of their arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST (POA) Act, East Champaran, Motihari in A.B.P. No. 4326 of 2023 arising out of Kalyanpur P.S. Case No. 261 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

guddukr/-

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