

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4890 of 2023

Arising Out of PS. Case No.-419 Year-2023 Thana- CHAPRA MUFFASIL District- Saran

TUNNU MISHRA @ NISHANT KETU son of Late Suresh Mishra @ Late Sureshwar Prasad Mishra Village- Sidhwaliya Ps- Chapra Muffasil Dist- Saran

... .. Appellant/s

Versus

1. The State of Bihar
2. Ramesh Kumar Ram son of Late Bunilal Ram Village- Sidhwaliya Ps- Muffasil Dist- Saran

... .. Respondent/s

Appearance :

For the Appellant	:	Dr. Rajesh Kumar Singh, Advocate
For the State	:	Ms. Usha Kumari 1, , Spl.PP
For Respondent No. 2	:	N o n e

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 08-08-2024 Heard learned counsel appearing for the appellant and learned Special Public Prosecutor appearing for the respondent-State.

2. Despite valid service of notice, no body appears on behalf of Respondent No. 2.

3. This appeal has been filed for setting aside order dated 21.09.2023 passed in a case registered for the offence punishable under Sections 341, 323, 324, 504, 506 and 34 of the Indian Penal Code and Section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellant has been rejected.



4. As per prosecution case, on 28.05.2023, while the informant was on the land which was purchased by him from one Birendra Mishra in the year 2018, all the F.I.R. named accused persons, including this appellant, came there and abused the informant by caste name and also assaulted him. It is further alleged that they also spat on his face.

5. It is submitted by learned counsel appearing on behalf of the appellant that appellant is bataidar appointed by one Bachchi Devi, who is the actual owner of the land in question, and he is using the said land for agricultural purposes. It is next submitted that Birendra Mishra has no title or possession over the land in question and informant has purchased the land fraudulently and on the alleged date of occurrence, in order to take possession over the land, a simple occurrence took place. Allegation of assault is general and omnibus and there is no specific allegation of overt act against this appellant. Moreover, the injuries allegedly caused by this appellant have been opined to be simple in nature. It is further submitted that it is not the case of the prosecution that any member of the public was present at the place of incidence and as such, no case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against this



appellant. Appellant claims clean antecedents.

6. Learned Spl. P.P. appearing for the respondent-State has opposed the prayer for grant of bail to the appellant.

7. Considering the aforesaid facts and circumstances of the case, this appeal is allowed and the impugned order dated 21.09.2023 passed by the Court of learned Exclusive Special Judge, Saran at Chapra, in connection with A.B.P. No. 3185 of 2023 is hereby set aside with respect to this appellant only.

8. Accordingly, let the appellant, 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) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Saran at Chapra, in connection with Chapra Muffasil P.S. Case No. 419 of 2023.

(Prabhat Kumar Singh, J)

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