

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4989 of 2023

Arising Out of PS. Case No.-544 Year-2023 Thana- BIHTA District- Patna

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1. RAJESH KUMAR @ RAJESH MAHTO S/o RUDAL MAHTO R/o vill - Mahuar, P.O. - Ikwalganj Nisharpura, P.S. - Bihta, Distt. - Patna
 2. Ashish Saw Son of Ram Babu Saw R/o vill - Mahuar, P.O. - Ikwalganj Nisharpura, P.S. - Bihta, Distt. - Patna
 3. Devchand Saw @ Dhan Babu Saw @ Devchan Saw Son of kus Har Saw R/o vill - Mahuar, P.O. - Ikwalganj Nisharpura, P.S. - Bihta, Distt. - Patna
 4. Chotu Kumar @ Chhotu Saw Son of Ram Babu Saw R/o vill - Mahuar, P.O. - Ikwalganj Nisharpura, P.S. - Bihta, Distt. - Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Pushpa Devi W/o Sajivan Ram R/o vill - Mahuar, P.S. - Bihta, Distt. - Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rudra Deo

For the Respondent/s : Mrs. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 11-07-2024 Heard learned counsel appearing for the appellants and learned Special Public Prosecutor appearing for the respondent-State.

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

3. This appeal has been filed for setting aside the order dated 07.10.2023 passed by the learned Exclusive Special



Judge, SC/ST Act, Patna in a case wherein cognizance has been taken for the offence punishable under sections 147, 149, 341, 323, 354, 504 & 506 of the Indian Penal Code and Section 3(i) (r) (s), 3(2)(va)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and section 25(1-b)a/26/35 whereby the prayer for anticipatory bail of the appellant has been rejected.

4. As per prosecution case, on the occasion of marriage of her *devar*, informant along with female members of the village went for Matkor ceremony in the north side of the village. In the meantime, all the F.I.R named accused persons including these appellants abused the informant and female members by calling caste name and misbehaved with them. It is further alleged that on 31.05.2023 at 5:00 P.M. some villagers were taking bath in Sone river then co-accused Amit Mahto pointed pistol on villager Ranjan Kumar.

5. It is submitted by learned counsel appearing on behalf of the appellants that as per F.I.R. first occurrence took place on 30.05.2023 but no any complaint or information has been filed by any prosecution party and subsequently second occurrence took place on 31.05.2023 of which the informant is not the eye-witness. As a matter of fact is a case of counter blast



of Bihta P.S. Case No. 543 of 2023 lodged by sister of the co-accused Amit Mahto against the husband of the informant. Allegation of assault and misbehavior is general and omnibus. It is further submitted that it is not the case of the prosecution that there was any member of public at the time of incidence, hence, no case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against these appellants. Appellants 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 07.10.2023 passed by the learned Exclusive Special Judge, SC/ST Act, Patna in A.B.P. No. 7704 of 2023, arising out of Bihta P.S. Case No. 544 of 2023 is hereby set aside with respect to these appellants only.

8. Accordingly, 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 Exclusive Special Judge, SC/ST Act, Patna



in connection A.B.P. No. 7704 of 2023, arising out of Bihta P.S.
Case No. 544 of 2023.

(Prabhat Kumar Singh, J)

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