

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4981 of 2023

Arising Out of PS. Case No.-181 Year-2023 Thana- SHAHKUND District- Bhagalpur

Santosh Kumar Mowar @ Santosh Kumar Son Of Bipin Mowar Resident Of
Village -Dohardih Ps -Shahkund District- Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Chun Choudhary Son Of Gouri Choudhary Resident Of Village- Dohradhi,
Ps- Shahkund, Dist- Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dhramveer, Advocate

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

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 04-07-2024 Despite valid service of notice, nobody appears on
behalf of the Respondent No. 2.

2. Heard learned counsel for the parties.

3. This criminal appeal has been filed against the
order dated 25.08.2023 passed by learned Additional District &
Sessions Judge-III-cum-Special Judge, (SC/ST Act), Bhagalpur
in A.B.P. No. 2166/2023 in connection with Shahkund P.S. Case
No. 181 of 2023, registered under Sections 147, 341, 323, 307,
506 of the Indian Penal Code and Sections 3(i)(r)(s) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, whereby the prayer for anticipatory bail of
appellant has been rejected.



4. Prosecution case, in brief, is that on 20.04.2023 at about 10 PM, while pravachan of Bhagwatkatha was going on in the village of the informant, all the F.I.R. named accused persons, including this appellant, came there and assaulted the informant and other by means of *khanti*, brick, rod etc.

5. Learned counsel for the appellant submits that specific accusation of assault is against other accused persons. So far this appellant is concerned, there is no allegation of specific overt act against him. Furthermore, there is no allegation of abuse by caste name within the public view and as such, no offence is made under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Appellant claims clean antecedent.

6. Learned Special Public Prosecutor for the State vehemently opposed the prayer for anticipatory bail of the appellant.

7. Considering the nature of allegation and clean antecedent, impugned order dated 25.08.2023 passed by learned Additional District & Sessions Judge-III-cum-Special Judge, (SC/ST Act), Bhagalpur in A.B.P. No. 2166/2023 in connection with Shahkund P.S. Case No. 181 of 2023 is set aside.

8. Let the appellant, as named above, in the event of



his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-III-cum-Special Judge, (SC/ST Act), Bhagalpur in connection with Shahkund P.S. Case No. 181 of 2023.

9. Accordingly, the impugned order, is set aside and the criminal appeal is allowed.

(Prabhat Kumar Singh, J)

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