

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5123 of 2023

Arising Out of PS. Case No.-656 Year-2021 Thana- GARKHA District- Saran

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1. Pawan Kumar Rai S/O Yogendra Rai R/O Village- Narayanpur, P.S- Garkha, Distt.- Saran At Chapra.
 2. Bhawan Rai @ Bhawan Kumar Rai @ Bhulan Rai S/O Bhola Rai R/O Village- Narayanpur, P.S- Garkha, Distt.- Saran At Chapra.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Badal Kumar S/O Rama Shankar Ram R/O Village- Narayanpur, P.S- Garkha, Distt.- Saran At Chapra.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dewendra Narayan Singh
For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 11-07-2024 Heard learned counsel appearing for the appellants and learned Special Public Prosecutor appearing for the respondent-State.

2. This appeal has been filed for setting aside the order dated 28.01.2022 passed by the learned 3rd Additional District and Sessions Judge-cum-Special Judge, SC/ST Act, Saran at Chapra in a case wherein cognizance has been taken for the offence punishable under sections 147, 148, 149, 323, 324, 504, 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.

3. As per prosecution case, on 23.09.2021, when the informant was at his house, in the meantime due to dispute over pathway all the eighteen named F.I.R. accused persons including these appellants armed with various weapons abused and assaulted the informant and his family members. It is further alleged that appellant no. 1 attacked the informant with knife causing cut injury on his right chick.

4. It is submitted by learned counsel appearing on behalf of the appellants that no occurrence as alleged has ever been committed. Neither the informant was subjected to assault nor he has been abused by caste name. As a matter of fact, informant wanted to encroach the land of the appellants while constructing the village road, upon protest a quarrel took place. The injury caused by the informant by hard and blunt substance is simple in nature. So far appellant no. 2, there is general and omnibus allegation. 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.

5. Learned Spl. P.P. appearing for the respondent-State



has opposed the prayer for grant of bail to the appellants.

6. Considering the aforesaid facts and circumstances of the case, this appeal is allowed and the impugned order dated 28.01.2022 passed by the learned 3rd Additional District and Sessions Judge-cum-Special Judge, SC/ST Act, Saran at Chapra in connection with Garkha P.S. Case No. 656 of 2021 is hereby set aside with respect to these appellants only.

7. 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 3rd Additional District and Sessions Judge-cum-Special Judge, SC/ST Act, Saran at Chapra in connection with Garkha P.S. Case No. 656 of 2021.

(Prabhat Kumar Singh, J)

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