

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5131 of 2023

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

NESAR AHMAD SON OF ABDULLAH RESIDENT OF VILLAGE -
MEGHUA, P.S. - KALYANPUR, DISTRICT - EAST CHAMPARAN

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. YOGENDRA RAM SON OF LAXAMAN RAM RESIDENT OF
VILLAGE - MEGHUA, P.S. - KALYANPUR, DISTRICT - EAST
CHAMPARAN

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Dharendra Kumar, Adv.
For the OP. No. 2	:	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

3 05-01-2024 Heard learned counsel for the appellant and learned
counsel for the informant as well as learned Special Public
Prosecutor for the State.

2. 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.

3. As per the prosecution case, the appellant 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 appellant 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.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. The allegation against the appellant is of assaulting the informant's wife with *Farsa*. There is no allegation of repetition of blow against the appellant for killing her. As per supplementary affidavit filed on behalf of the appellant, the injury of the informant's wife is stated to be simple in nature. 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 appellant 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 appellant has no criminal antecedents as stated at para 3 of the bail petition.

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

6. 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 appellant, 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. The criminal appeal is allowed.

7. Accordingly, the above named appellant in the event of his 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)

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