

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5261 of 2023

Arising Out of PS. Case No.-167 Year-2023 Thana- DAGARUA District- Purnia

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MOHAMMAD MUJAHID SON OF MOHAMMAD KASIM R/O
VILLAGE- WARD NO.10, BHAKHARI ADHKALI, P.O.- MAHALBARI,
P.S.- DAGARUA GULABAGH, DISTRICT- PURNIA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. RABINDRA KUMAR SON OF ASHOK DAS R/O VILLAGE-
NAYATOLA BIKHARI, P.S.- DAGARUA, DISTRICT- PURNIA

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rakesh Kumar Jha, Adv.
For the Respondent/s : Mr. Usha Kumari 1, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 04-10-2024 Heard learned counsel for the appellant, learned
counsel for the informant and learned Spl. P.P. for the State.
However, learned counsel for the respondent no.2 is not present
despite notice is validly served upon the respondent no. 2.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the rejection of prayer of bail of
the appellant vide order dated 21.08.2023 passed by the learned
Special Judge, SC/ST Act, Purnea in connection with Dagarua
P.S. Case No. 167 of 2023 dated 27.05.2023 registered for the
alleged offences punishable under Sections 143, 447, 341, 323,
324, 325, 307, 379, 354, 504 and 506 of the Indian Penal Code



and Sections 3(i)(r)(s)(w)/ 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per the prosecution case, the appellant and the co-accused persons were laying the foundation in the field of the informant. When the informant and his family protested, all the accused persons abused the informant and his family by calling their caste name and they assaulted him and his family members. The co-accused, Md. Waris assaulted the informant's brother with iron rod on his head causing injury and he became unconscious and the co-accused, Md. Jahid assaulted the informant with lathi causing fractured injury to the informant's hand. When the informant's sister and mother came to rescue, they threatened to rape them and disrobed the informant's sister. They also snatched two motorcycles, one mobile and golden Mangalsutra and fled away.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. There is general and omnibus allegation against the petitioner. The injury is stated to be simple in nature. There is no external bleeding on the body of the injured, Anupam Kumar. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged



occurrence. As per FIR, no member of public was present at the relevant point of time of the alleged incident hence, no case is made out under section SC/ST Act. The co-accused person has already been granted bail by this court vide order dated 19.07.2024 passed in Cr. Misc. No. 5179 of 2023. The appellant has no criminal antecedent as stated in para 3 of the bail petitioner.

5. Learned Special Public Prosecutor for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 21.08.2023 passed by the learned Special Judge, SC/ST Act, Purnea in connection with Dagarua P.S. Case No. 167 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/ 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) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST Act,



Purnea in connection with Dagarua P.S. Case No. 167 of 2023,
subject to the conditions mentioned in Section 438(2) of the
Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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