

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5410 of 2023

Arising Out of PS. Case No.-29 Year-2023 Thana- SC/ST District- Rohtas

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1. Nitesh Kumar @ Guddu Chaudhari Son Of Rajendra Chaudhary R/O Vill - Chaita Bahori, P.S. - Sanjhauli, Distt. - Rohtas
 2. Rajendra Chaudhary Son of Late Ram Tapasya Chaudhary R/o vill - Chaita Bahori, P.S. - Sanjhauli, Distt. - Rohtas

... .. Appellants

Versus

1. The State of Bihar
2. Hans Kumar Ram Son of Lal Bahadur Ram R/o vill - Chaita Bahori, P.S. - Sanjhauli, Distt. - Rohtas

... .. Respondents

Appearance :

For the Appellant/s	:	Mr.Nagendra Upadhyay, Advocate
For the Respondent/s	:	Ms/Mrs. Usha Kumari 1, Spl.P.P
		Mr. Chotelal Mishra, Advocate
		Ms/Mrs. Jyoti yadav, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 18-07-2024 Heard learned counsel for the appellants, the State and respondent no.2.

2. This appeal has been filed for setting aside order dated 17.10.2023 passed in a case registered for the offence punishable under sections 341, 323, 504, 506/34 of the IPC and sections 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby prayer for anticipatory bail of the appellants has been rejected.

3. As per the prosecution case, ancestors of opposite party No. 2 were cremating the dead body on government land situated at south side of village for about 100 years. Later on,



accused persons made encroachment on the said land. At about 12.00 noon on 24.04.2023 and on 25.04.2023 at 9 AM when informant (opposite party No.2) and his family members went to enquire about said encroachment then they were abused by caste name and assaulted by the accused persons with fists and slaps.

4. Learned counsel appearing for the appellants submits that the parties are co-villagers. As a matter of fact, appellant No. 1 filed Complaint case No. 597/2023 in the court of learned Additional Chief Judicial Magistrate, Bikramganj for offence under section 341, 323, 379, 384, 504, 506/34 of I.P.C. and under section 27 of Arms Act against the opposite party No. 02 and others stating there in that the appellant No. 01 has pond in his raiyati land situated near cremation land and the motor installed at his pond was stolen by the opposite party No. 02 and other and they also poured poison in the pond in which there were fishes in the pond and when appellant No. 01 went to ask about his motor then opposite party No. 02 snatched the gold chain and other co-accused namely Munna Ram took the thumb impression of appellant No. 01 on the two Non judicial Stamp papers and also demanded Rangdhari of 10,000/- per month. In order to create defence, this false case has been lodged after institution of the aforesaid case. It is not the case of



respondent no.2 that any member of the public was present on the spot at the time of alleged incident, as such, no case under SC/ST Act is made out. Appellants claim clean antecedent.

5. Counsel for the State and the respondent no.2 oppose the prayer for bail.

6. Considering the aforesaid facts, this appeal is allowed and the impugned order is set aside.

7. Let the appellants, named above, in the event of their 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 Additional District and Sessions Judge-XVII-cum-Exclusive Special Judge SC/ST, Rohtas at Sasaram in connection with SC/ST Police Station Case No. 29 of 2023.

(Prabhat Kumar Singh, J)

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