

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5447 of 2023

Arising Out of PS. Case No.-73 Year-2023 Thana- SC/ST District- Samastipur

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1. Ritesh Kumar Mishra @ Ritesh Mishra Son Of Kaushlendra Mishra Resident Of Ward No. 12, Chak Habib, P.S.- Bibhutipur, District- Samastipur
 2. Kaushlendra Mishra S/O Resident Of Ward No. 12, Chak Habib, P.S.- Bibhutipur, District- Samastipur
 3. Sumesh Kumar Mishra @ Sumesh Mishra Son Of Kaushlendra Mishra Resident Of Ward No. 12, Chak Habib, P.S.- Bibhutipur, District- Samastipur

... .. Appellant/s

Versus

1. The State Of Bihar
2. Mukesh Paswan Son Of Sahdev Paswan Resident Of Ward No. 12, Chak Habib, P.S.-bibhutipur, District- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Abhay Shankar Singh
For the State	:	Mr. Sadanand Paswan
For the Respondent No.2:	:	Mr. Bijay Bhushan Prasad

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 01-02-2024 Heard learned counsel for the appellants and learned

Spl. PP for the State and learned counsel for the respondent no.
2.

2. Learned counsel for the appellants seeks
permission to withdraw this application with regard to appellant
no. 3 submitting that during pendency of this application the
appellant no. 3 has already been apprehended by the police.

3. Permission is granted.

4. Accordingly, this application with regard to



appellant no. 3 is dismissed as withdrawn.

5. Now, this application is being heard only with regard to appellants no. 1 and 2.

6. Heard learned counsel for the appellants, learned Special Public Prosecutor for the State and learned counsel for the respondent no. 2.

7. This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the SC/ST Act), against the refusal of prayer of anticipatory bail vide order dated 31.10.2023 passed by learned Special Judge, SC/ST (PoA) Act, Samastipur, in connection with Samastipur SC/ST P.S. Case No. 73 of 2023 registered under Sections 341, 323, 354, 504/34 of the Indian Penal Code and Sections 3(i)(r) (s)(w) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

8. As per the prosecution case, it is alleged that the appellants have abused the informant's father and assaulted the informant and his family members by means of stick and iron-rod.

9. Learned counsel for the appellant submits that the appellants are innocent and has falsely been implicated in the



present case. There is no allegation of slating the informant in the specific name of his caste, hence, no offence under SC/ST Act is made out against the appellants. He submits that there is no specific overt act against the appellants. He further submits that injury was found simple in nature. He also submits that there is inordinate and abnormal delay of seven days in filing the F.I.R. without assigning any plausible and convincing reason for the said delay, which creates serious doubt about the prosecution case. Appellants no. 1 and 2 have one criminal antecedent as mentioned in para-3 of memo of the appeal.

10. Learned Spl. PP for the State as well as learned counsel for the respondent no. 2 opposed the payer for bail and submitted that the appellants abused father of the respondent no. 2 by taking caste name.

11. Considering the facts and circumstances of the case and the fact that there is no specific overt against the appellants no. 1 and 2, let the above named appellants no. 1 and 2, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST



(PoA) Act, Samastipur, in connection with Samastipur SC/ST P.S. Case No. 73 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

12. Accordingly, the impugned order is set aside and this appeal is partly allowed.

(Anjani Kumar Sharan, J)

anand/-

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