

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5391 of 2023**

Arising Out of PS. Case No.-5 Year-2023 Thana- SC/ST District- Vaishali

Shambhu Kumar @ Shambhu Rai Son Of Laldeo Rai R/O Village- Mirja
Nagar, P.S.- Mahua, Dist.- Vaishali

... .. Appellant

Versus

1. The State Of Bihar
2. Ajay Rajak Son Of Late Madan Baitha R/O Village- Mirja Nagar, P.S.-
Mahua, Dist.- Vaishali

... .. Respondents

Appearance :

For the Appellant/s : Mr.Shanti Bhushan Singh, Advocate
For the Respondent/s : Ms/Mrs. Usha Kumari 1, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

3 18-07-2024 Heard learned counsel for the appellant and the State.

Despite service of notice, nobody appears for respondent no.2.

2. This appeal has been filed for setting aside order dated 23.9.2023 passed in a case registered for the offence punishable under sections 341,323,447,385, 504, 506/34 of the IPC and section 3(i)(r)/3(i)(s)3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby prayer for anticipatory bail of the appellant has been rejected.

3. As per the prosecution case, appellant and two unknown accused persons abused respondent no.2 by caste



name and they also assaulted him when he was working in newly constructed temple.

4. Learned counsel appearing for the appellant submits that the parties are co-villagers land due to dispute over payment of wages, respondent no.2 has falsely lodged this present case. F.I.R. has been lodged after delay of four days without any explanation which renders the entire prosecution case doubtful. No external or internal injury has been found on the palm alleged to be injured. It is not the case of the informant that any member of public was present on the spot at the time of occurrence, as such, the incident did not take place within public view and hence no offence under the SC/ST Act is made out against the appellant. Appellant claims clean antecedent.

5. Counsel for the State oppose the prayer for bail.

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

7. Let the appellant, 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) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Court, SC/ST Act, Vaishali at Hajipur in



connection with Hajipur (SC/ST) Police Station Case No. 05 of
2023.

Shashi

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(Prabhat Kumar Singh, J)

