

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.579 of 2024

Arising Out of PS. Case No.-226 Year-2023 Thana- BARHARA KOTHI District- Purnia

Kundan Yadav @ Kundan Kumar @ Kundan Kumar Yadav son of Ramji
Yadav Village- Mouzampatti PS- Barhara Kothi Raghuwansh Nagar OP Dist-
Purnea

... .. Appellant/s

Versus

1. The State of Bihar
2. Nanhe Rishidev son of Joginder Rishidev Vill- Mouzampatti Ps- Barhara
Kothi Raghuwansh Nagar OP Dist- Purnea

... .. Respondent/s

Appearance :

For the Appellant	:	Mr. Rajnish Kumar Singh, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.PP
For Respondent No. 2	:	N o n e

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 31-07-2025 Heard learned counsel appearing for the appellant and
learned Spl.P.P. appearing on behalf of the State.

2. Despite valid service of notice, no one appears on
behalf of the informant/Respondent No. 2.

3. This appeal has been filed for setting aside order
dated 16.12.2023 passed in a case registered for the offence
punishable under Sections 147, 149, 341, 323, 448, 427, 354B,
380, 504 and 506 of the Indian Penal Code and Section 3(i)(r)(s)
of the Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, whereby the prayer for anticipatory bail of the
appellant has been rejected.

4. The prosecution case, in brief, is that on 06.06.2023



at about 9 AM, when informant and his son, namely Rohan Kumar, were sitting on the road near the house, in the meantime, co-accused Ganesh Yadav while going on a motorcycle dashed into his son and on objection, he abused informant by caste name and thereafter, all the accused persons named in the F.I.R., including this appellant, armed with rifles and deadly weapons, assaulted informant and his family members and abused them by caste name.

5. It is submitted by learned counsel appearing on behalf of the appellant that appellant is quite innocent and has committed no offence. As a matter of fact, on the alleged date and time of occurrence, a quarrel took place between the parties over a petty dispute in which both sides sustained injuries. There is case and counter-case between the parties. Allegation of assault is general and omnibus and no specific accusation of overt act has been alleged against this appellant. As per F.I.R., all the F.I.R. named accused persons, including this appellant and 8 to 10 unknown persons assaulted informant and his family members but there is no injury report on record to substantiate the allegations. It is not the case of the prosecution that any member of public was present at the place of occurrence and as such, no case under the Scheduled Castes and Scheduled Tribes



(Prevention of Atrocities) Act is made out against the appellant.

6. On the other hand, learned Spl.P.P. appearing on behalf of the State has vehemently opposed this appeal.

7. Considering the facts and circumstances of the case, general and omnibus nature of accusation and caste and counter-case between the parties, this appeal is allowed and the impugned order dated 16.12.2023 passed by the learned Special Judge, SC/ST Act, Purnea in connection with A.B.P. No. 137 of 2023 arising out of Barhara (Raghuwansh Nagar O.P.) P.S. Case No. 226 of 2023 is hereby set aside with respect to this appellant only.

8. Accordingly, 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 learned Special Judge, SC/ST Act, Purnea in connection with Barhara (Raghuwansh Nagar O.P.) P.S. Case No. 226 of 2023.

(Prabhat Kumar Singh, J)

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