

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1558 of 2024

Arising Out of PS. Case No.-445 Year-2023 Thana- AMARPUR District- Banka

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1. Deva Nand Choudhary S/o Arjun Prasad Choudhary R/o vill - Mahadeopur, P.s. - Amarpur, Distt. - Banka
 2. Viveka Nand Choudhary @ Vikku Choudhary S/o Arjun Prasad Choudhary R/o vill - Mahadeopur, P.s. - Amarpur, Distt. - Banka
 3. Nitish Kumar S/o Viveka Nand Choudhary R/o vill - Mahadeopur, P.s. - Amarpur, Distt. - Banka

... .. Appellant/s

Versus

1. The State of Bihar
2. Kundan Kumar Tanti S/o Phule Tanti R/o vill - Puranchak, P.S. - Amarpur, Distt. - Banka

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sarvan Kumar
For the Respondent/s	:	Mr.Sadanand Paswan, Spl. PP
		Mr. Abhishek Kumar
		Mr. Mohit Shriwastava

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 02-12-2025 1. Heard learned counsel for the appellants and learned Spl. P.P. for the State, Sri Sadanand Paswan and the learned counsel appearing on behalf of the informant.

2. This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 15-2-2024 in A.B.P. No. 105 of 2024 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Banka in connection with Amarpur P.S. Case No. 445 of 2023 registered for



the offences punishable under Sections 341, 323, 504, 506 and 34 of the Indian Penal Code as well as Sections 3(1)(r)(s) and 3(2)(va) of the SC/ST Act.

3. Learned counsel for the appellants submits that the appellants are persons with clean antecedent and the informant alleges that on 13-6-2023 at about 7.30 am when he was going for performing work at the house of Rakesh, when Devanand abused him by taking caste name and thereafter Vivekanand and Nitish came and assaulted him by lathi and axe on head and on his back and threatened to leave and go to Punjab for work.

4. The learned counsel for the appellants submits that appellants have been falsely implicated in instant case by the informant. It is next submitted that from perusal of the allegations as alleged in the FIR, it would manifest that the date of occurrence is 13-6-2023 and the FIR came to be instituted on 21-6-2023. It is further submitted that police after investigation submitted charge-sheet, but then never felt the need of arresting the appellants. It is also submitted that based on charge sheet, cognizance came to be taken, thus appellants apprehend their arrest. It is submitted that when police in the course of investigation never felt the need of arresting the appellants, whether it would be prudent for the court to send the appellants to jail based on an order of cognizance moreso when the FIR was instituted after a delay of more than 7



days.

5. The learned Spl. PP and learned counsel appearing on behalf of the informant are not in a position to rebut the submission of the learned counsel appearing on behalf of the appellants that police during the course of investigation never felt the need of arresting the appellants, but then it is submitted that charge sheet has been submitted and cognizance came to be taken, hence, a *prima facie* case is made out.

6. After hearing the learned counsel for the parties, the appeal is disposed of with a direction to the appellants to surrender before the learned trial court 15-12-2025 and the learned trial court on the same day shall consider and dispose of the application of the appellants keeping in mind the fact that police during the course of investigation never felt the need of arresting the appellants and the FIR was instituted after a delay of more than 7 days.

7. The respondent No. 2 is directed to remain physically present before the learned trial court on 15-12-2025.

(Satyavrat Verma, J)

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