

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2327 of 2024

Arising Out of PS. Case No.-41 Year-2023 Thana- SC/ST District- Araria

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1. Shahnawaj son of Rakib @ Rakibuddin Village-Banmottar W.No-13, Ps- Jokihat Dist- Araria
 2. Sarwar @ Md. Sarwar Alam @ Md. Sarwar son of Alam @ Md. Alam Village-Banmottar W.No-13, Ps- Jokihat Dist- Araria

... .. Appellant/s

Versus

1. The State of Bihar
2. Leela Devi W.o Late Shyamlal Rajak PS- Jokihat Dist- Araria

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Md Ziaul Quamar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, SPP
For the Informant	:	None

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 31-01-2025 Heard learned counsel for the appellants, learned Special Public Prosecutor for the State and perused the case diary. None appears on behalf of the informant despite valid service of notice.

2. The instant appeal has been filed by the appellants against the order dated 24.04.2024 passed by learned First Additional Sessions Judge cum Special Judge, Araria whereby the prayer for anticipatory bail of the appellants in connection with Araria SC/ST P.S. Case No. 41 of 2023 under Sections 147, 149, 427, 504, 506, 323, 354B of Indian Penal Code and Sections 3(2)(va) of SC/ST Act was rejected.



3. The prosecution case, in short, is that on the alleged date and time, the accused persons including the appellants reached at the field of the informant and started ploughing the same. On receipt of such information, the informant reached there and protested for the same. Thereafter, the accused persons started abusing her by calling her caste name. It is alleged that on the order of Muralidhar Jha, Md. Afaq and Md. Zahid assaulted her with sticks, rods, kicks and punches. Md. Afaq also assaulted on her head by iron rod. It is again alleged that Md. Zahid and Murlidhar Jha tore her saree and blouse and made her half naked.

4. Learned counsel for the appellants submits that the appellants have falsely been implicated in the present case. Learned counsel further submitted that there is a delay of three days in lodging the FIR without plausible explanation, which in itself, raises doubt over the prosecution story. Learned counsel further submitted that general and omnibus allegation is alleged against the appellants. The specific allegation of assaulting the informant is against Afaq and Md. Zahid who have already been granted regular bail by this Court vide order dated 20.06.2024 passed in Cr. Appeal (SJ) No. 863 of 2024. Learned counsel further submitted that allegations are false and baseless



and only due to previous land dispute between the parties. The appellants have no intention to disgrace the image of the informant in public view, hence, no offence under the provisions of SC/ST Act is made out against them. The appellants have one criminal antecedent.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellants.

6. Considering the aforesaid facts and circumstances of the case, period of custody undergone by the appellants, there being no specific allegation against the appellant and also taking into account the fact that there is already land dispute and case and counter-case between the parties, *prima facie*, it appears that no case is made out against the appellants under SC/ST Act, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 24.04.2024 passed by learned First Additional Sessions Judge cum Special Judge, Araria is hereby set aside.

7. Let the appellants, above named, in the event of arrest/surrender before the Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of Court



below/concerned Court in connection with Araria SC/ST P.S.
Case No. 41 of 2023, subject to the conditions as laid down
under Section 482(2) of the Bharatiya Nagarika Suraksha
Sanhita, 2023.

(Rudra Prakash Mishra, J)

Alok Verma/-

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