

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2301 of 2024

Arising Out of PS. Case No.-43 Year-2023 Thana- SC/ST District- Araria

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1. Shahnawaj son of Rakib Village- Banmottar W.No-13, Ps- Jokihat Dist- Araria
 2. Talib @ Md. Abu Talib son of Tahir Village- Banmottar W.No-13, Ps- Jokihat Dist- Araria
 3. Sarwar @ Sarwar Alam son of Alam Village- Banmottar W.No-13, Ps- Jokihat Dist- Araria
 4. Mahboob @ Mahboob Alam son of Late Fajilat Village- Banmottar W.No-13, Ps- Jokihat Dist- Araria
 5. Galib son of Late Seraj Village- Banmottar W.No-13, Ps- Jokihat Dist- Araria

... .. Appellant/s

Versus

1. The State of Bihar
2. Dayanand Prasad Rajak son of Late Shyamlal Rajak Village- Banmottar W.No-13, Ps- Jokihat Dist- Araria

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Md Ziaul Quamar, Adv.
For the Respondent/s : Mr. Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 28-02-2025 Heard learned counsel for the appellants and learned
Spl. P.P. for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for anticipatory bail of the appellants vide order dated 24.04.2024 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in connection with Araria SC/ST P.S. Case No. 43 of 2023 dated 23.12.2023 registered for the alleged



offences punishable under Sections 147, 149, 341, 325, 324, 323, 307, 504, 506, 354B, 427, 379 and 385 of the Indian Penal Code and Sections 3(1)(r)(s)/ 3(2)(v)/ 5 of the Scheduled Castes and Scheduled Tribes (PoA) Act.

3. As per prosecution case, the informant was 200m away from his home, the accused persons armed with knife, iron, rod and weapons stopped the informant's motorcycle and snatched the key of the vehicle. The co-accused, Md. Afaque put arms on forehead of the informant and threatened him to withdraw the earlier filed case by his mother. During the conversation, on the order of the co-accused, Salimuddin, all the accused persons started beating the informant and abusing him by calling his caste name. The co-accused, Rakib assaulted the informant with iron rod on his head. The co-accused, Zahid inflicted knife blow on the informant due to which his thumb got cut. The petitioner, Shahnawaj assaulted the informant with lathi and danda due to which his right side of panjera was fractured. When the informant's mother and wife came to rescue then the appellants, Mehboob, Ghalib and the co-accused, Guddu assaulted them with kicks and punches and outraged their modesty. During the assault, the informant's office documents were torn into pieces by the accused persons and a



golden chain and Rs. 1,05,000/- in cash were snatched by the co-accused, Md. Afique. The co-accused, Rakib snatched silver chain from the neck of the informant's wife and the appellants Sarwar snatched a golden ring from the informant's finger.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this case. There is a case and counter case between the parties. There is land dispute between the parties. There is general and omnibus allegation of abusing against the appellants and no member of public was present at the relevant point of time of the incident and hence, no offence under provisions of SC/ST Act is made out against the appellants. There is no specific allegation against the appellant no.2 and the allegation against the co-accused, Zahid who assaulted the informant with knife causing cut injury on thumb of left hand and the injury is simple in nature which is on non vital part of the body. As per of the injury report of the injured, the injury nos. 1, 2, 4 and 5 are simple in nature and no evidence of fracture is seen. It is further submitted that the appellants have no concern with the alleged offence. The appellant nos. 2, 4, 5 have no criminal antecedent and appellant nos. 1 and 3 have one criminal antecedent as stated in para 3 of the bail petition. The co-accused persons have



been granted bail by this Court vide order dated 09.05.2024 passed in Cr. Appeal(SJ) No. 851 of 2024.

5. Learned Special Public Prosecutor for the State has opposed the prayer for bail of the appellants.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 24.04.2024 passed by the learned 1st Additional Sessions Judge-cum- Special Judge, Araria in connection with Araria SC/ST P.S. Case No. 43 of 2023, is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, in the event of their arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum- Special Judge, Araria in connection with Araria SC/ST P.S. Case No. 43 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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