

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2725 of 2024

Arising Out of PS. Case No.-2 Year-2024 Thana- MAHUA District- Vaishali

1. Rabindra Kumar Son of Late Ram Pravesh Kunawar R/O Vill.- Karihoon (Bishanpur Bejha), P.S.- Mahua, Dist.- Vaishali
2. Manoj Kumar Son of Late Raghunath Kunawar R/O Vill.- Karihoon (Bishanpur Bejha), P.S.- Mahua, Dist.- Vaishali
3. Rohit Kumar Son of Dharmendra Kunawar R/O Vill.- Karihoon (Bishanpur Bejha), P.S.- Mahua, Dist.- Vaishali
4. Prince Kumar Son of Ashok Kunawar R/O Vill.- Karihoon (Bishanpur Bejha), P.S.- Mahua, Dist.- Vaishali
5. Akhilesh Kumar Son of Late Ram Abodh Kunawar R/O Vill.- Karihoon (Bishanpur Bejha), P.S.- Mahua, Dist.- Vaishali
6. Jaynath Kunawar Son of Late Ram Ekwat Kunawar R/O Vill.- Karihoon (Bishanpur Bejha), P.S.- Mahua, Dist.- Vaishali
7. Dharmendra Kumar Son of Late Ram Pravesh Kunawar R/O Vill.- Karihoon (Bishanpur Bejha), P.S.- Mahua, Dist.- Vaishali
8. Manish Kumar Son of Umesh Kunawar R/O Vill.- Karihoon (Bishanpur Bejha), P.S.- Mahua, Dist.- Vaishali

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajesh Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 10-04-2025 Despite filing *Vakalatnama*, none appears on behalf of the informant.

2. Heard learned counsel for the appellants and the State.

3. This appeal has been filed against the order dated 27.04.2024 passed by learned Exclusive Special Judge, SC/ST



Act cum ADJ, Vaishali at Hajipur in connection with A.B.P. No. 784 of 2024 arising out of Mahua P.S. Case No. 02 of 2024, registered under Sections 147, 341, 323, 354, 506/34 of the Indian Penal Code and Section 3(1)(r)(s)(w) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of appellants has been rejected.

4. As per prosecution case, on the alleged date and time of occurrence, while informant was sleeping in her house, all the F.I.R. name accused persons including these appellants along with 50 unknown persons entered her house and started assaulting her son. When informant woke up and tried to rescue her son, the accused persons assaulted and abused her by caste name and tried to commit rape with her.

5. Learned counsel for the appellants submits that appellants are innocent and have committed no offence. As a matter of fact, on account of scuffle between the children, an altercation took place between the parties in which both sides sustained injury. Allegation of assault is general and omnibus and there is no specific allegation of overt act against the appellants. Rest of the allegations are ornamental only to make the case grave. F.I.R. has been lodged after inordinate delay of



five days which itself raises doubt over veracity of the prosecution case. Moreover, it is not the case of the informant that alleged incident occurred within public view, as such, no offence under SC/ST Act is made out against the appellants. Appellants claim clean antecedent.

6. Learned Spl. Public Prosecutor for the State vehemently opposed the bail application.

7. Considering the nature of accusation and clean antecedent, let the appellants, as named above, in the event of their arrest/surrender within a period of eight weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of Exclusive Special Judge, SC/ST Act cum ADJ, Vaishali at Hajipur in connection with Mahua P.S. Case No. 02 of 2024.

8. Accordingly, this criminal appeal is allowed and impugned order dated 27.04.2024 is set aside with respect to these appellants only.

(Prabhat Kumar Singh, J)

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