

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2769 of 2024

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

Kedarnath Kunwar @ Kedar Kunwar @ Kedar Kumar S/O - Late Sakaldeep
Kunwar @ Sakaldeep Kumar R/O Village-Karihon, P.S.-Mahua, Distt-Vaishali

... .. Appellant/s

Versus

1. The State of Bihar
2. Urmila Devi W/O Late Manoj Ram R/O Village-Karihon, P.O.-Vishnpur
Bejha, P.S.-Mahua, Distt-Vaishali

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Akash Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. Public Prosecutor
For the R.No. 2	:	Mr. Anirvan Choudhuri, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 10-04-2025 Heard learned counsel for the appellant, respondent
No. 2 and the State.

2. This appeal has been filed against the order dated 27.04.2024 passed by learned Exclusive Special Judge, SC/ST Act, Vaishali at Hajipur in connection with A.B.P. No. 880 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 appellant has been rejected.

3. 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 this appellant 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.

4. Learned counsel for the appellant submits that appellant is innocent and has 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 appellant. 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 appellant. Appellant claims clean antecedent.

5. Learned Spl. Public Prosecutor for the State as well as learned counsel for the respondent No. 2 vehemently opposed the bail application.

6. Considering the nature of accusation and clean



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

7. 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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