

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4595 of 2023

Arising Out of PS. Case No.-97 Year-2023 Thana- NAUTAN District- Siwan

1. SAMPURNANAND DUBEY @ SAMPURNANAND DWIVEDI SON OF LATE KAMLA PRASAD DWIVEDI RESIDENT OF VILLAGE - SHAHPUR, P.S. - NAWTAN, DISTRICT - SIWAN
2. RAJEEV RANJAN DUBEY @ RAJIV RANJAN DIWEDI SON OF SAMPURNANAND DIWEDI RESIDENT OF VILLAGE - SHAHPUR, P.S. - NAWTAN, DISTRICT - SIWAN
3. DHIRAJ DUBEY @ PRAVIN PRAKASH DWIVEDI SON OF SAMPURNANAND DIWEDI RESIDENT OF VILLAGE - SHAHPUR, P.S. - NAWTAN, DISTRICT - SIWAN
4. AKHILESH DUBEY @ AKHILESH KUMAR DUBEY SON OF UMESH KUMAR DUBEY RESIDENT OF VILLAGE - SHAHPUR, P.S. - NAWTAN, DISTRICT - SIWAN
5. BIPIN BIHARI DUBEY SON OF LATE HARISHANKAR DUBEY RESIDENT OF VILLAGE - SHAHPUR, P.S. - NAWTAN, DISTRICT - SIWAN

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. RAJNISH GOND SON OF LATE JAI PRAKASH GOUR RESIDENT OF VILLAGE - SHAHPUR, P.S. - NAWTAN, DISTRICT - SIWAN

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Shyameshwar Kumar Singh, Adv.
For the informant	:	Mr. Prashant Kumar, Adv.
		Mr. Adarsh Rajan, Adv.
For the Respondent/s	:	Mr.Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 28-02-2025 Heard learned counsel for the appellants, learned counsel for the informant 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 against the refusal of prayer for anticipatory bail vide order dated 25.08.2023 passed



by the learned court of 1st Additional Sessions Judge-cum-Special Judge, Scheduled Caste/Scheduled Tribes Act, Siwan in connection with Nawtan P.S. Case No. 97 of 2023, registered for the alleged offences under Sections 147, 341, 323, 324, 379, 504, 506 of the Indian Penal Code and Sections 3(I)(r)(s), 3(2)(V) of the SC/ST (Prevention of Atrocities) Act, 1989.

3. As per the prosecution case, the co-accused persons including the appellants and 5-7 unknown miscreants armed with pistol, *lathi*, *farsa*, Hockey stick, rod and sword are alleged to have reached near the informant and the co-accused Prabhat Pandey fired on the informant towards his right side but the informant escaped. When the informant tried to leave the co-accused Umesh Dubey grabbed the informant's hair and pushed him on the ground and threatened while the co-accused Amlesh Dubey hit the shoulder of the informant. Further the co-accused, Vikash Dubey and Vishal Dubey tried to strangle the neck of the informant. It is further alleged that the co-accused, Brijeshwar Kumar Dubey hit Arun Dubey on his head with a rod due to which Arun Dubey sustained head injury. The appellant Dhiraj Dubey hit Arun Dubey's head with a sword due to which Arun Dubey sustained head injury.

4. Learned counsel for the appellants has submitted



that the appellants are innocent and have falsely been implicated in this case. The allegation of abusing against the appellants is general and omnibus and no member of public was present at the relevant point of time of the incident and hence, no offence under the provisions of SC/ST Act is made out against the appellants. There is a case and counter case between the parties. There is also land dispute between both the parties. There is no specific allegation against the appellants rather the allegation is general and omnibus in nature. The allegation against the appellant no. 3, Dhiraj Dubey is that he hit Arun Dubey's head with sword due to which Arun Dubey sustained injury on his left hand which is on non vital part of the body. The nature of injury is found to be simple in nature annexed as Annexure-4 series. The co-accused person has already been granted anticipatory bail by this court vide order dated 24.04.2024 passed in Cr. Appeal (SJ) No. 4513 of 2023. The appellants have one criminal antecedent as stated in para 3 of the bail petition.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for anticipatory bail of the appellants.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of learned



counsel for the appellant, the impugned order dated 25.08.2023 passed by the learned court of 1st Additional Sessions Judge-cum-Special Judge, Scheduled Caste/Scheduled Tribes Act, Siwan in connection with Nawtan P.S. Case No. 97 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/ 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 learned court of 1st Additional Sessions Judge-cum-Special Judge, Scheduled Caste/Scheduled Tribes Act, Siwan in connection with Nawtan P.S. Case No. 97 of 2023, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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