

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4012 of 2024

Arising Out of PS. Case No.-51 Year-2015 Thana- BAKHTIYARPUR District- Patna

1. Ganga Mahto @ Ganga Sagar Mahto S/O Rameshwar Mahto R/O Village-Simari, P.S- Bakhtiyarpur, Distt.- Patna.
2. Manoj Mahto @ Manoj Mhto Ramani S/O Rameshwar Mahto R/O Village-Simari, P.S- Bakhtiyarpur, Distt.- Patna.
3. Nitish Kumar S/O Ganga Mahto @ Ganga Sagar Mahto R/O Village-Simari, P.S- Bakhtiyarpur, Distt.- Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Rita Devi W/O Sajjan Mochi R/O Village- Simari, P.S- Bakhtiyarpur, Distt.- Patna.

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Alok Kumar Alok, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.PP
For the Informant	:	N o n e

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 16-04-2026 Heard learned counsel appearing for the appellants and learned Special Public Prosecutor appearing for the respondent-State.

2. Despite valid service of notice, no body appears on behalf of the informant/Respondent No. 2.

3. This appeal has been filed for setting aside order dated 20.06.2024 passed in a case registered for the offence punishable under Sections 448, 323, 341, 324, 325, 379, 504 and 506 of the Indian Penal Code and Section 3(I)(X) of the



Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and later on, Section 10 of the P.O.C.S.O. Act was added, whereby the prayer for anticipatory bail of these appellants has been rejected.

4. As per prosecution case, it is alleged that all the F.I.R. named accused persons, including these appellants, came at the house of informant, abused her with caste based slurs and also assaulted her. It is further alleged that co-accused Ajay Mahto and Dheera Mahto also misbehaved with daughter of informant and her friend.

5. It is submitted by learned counsel appearing on behalf of the appellants that appellants are quite innocent and have committed no offence. From bare perusal of the F.I.R. it is apparent that specific accusation of misbehaving with daughter of informant and her friend is against co-accused Dheeraj Mahto and Ajay Mahto. Appellant Nos. 1 and 2 are full brothers and Appellant No. 3 is son of Appellant No. 1 and they have falsely been implicated in this case merely because they happen to be member of the same caste of co-accused Dheeraj Mahto and Ajay Mahto. Allegation of assault and abuse by caste name is general and omnibus and no specific accusation of overt act has been alleged against these appellants. It is further submitted that



it is not the case of the prosecution that any member of public was present at the place of occurrence and as such, no case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against these appellants. Appellants claim clean antecedents.

6. Learned Spl. P.P. appearing for the respondent-State has opposed the prayer for grant of bail to the appellants.

7. Considering the facts and circumstances of the case, general and omnibus nature of accusation and clean antecedents of the appellants, this appeal is allowed and the impugned order dated 20.06.2024 passed by the learned VIth Additional Sessions Judge-cum-Special Judge, (POCSO), Patna in connection with A.B.P. No. 1734 of 2024 arising out of Spl. (POCSO) Case No. 138 of 2024 (Bakhtiyarpur P.S. Case No. 51 of 2015) is hereby set aside with respect to these appellants only.

8. Accordingly, let the appellants, named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned VIth Additional Sessions Judge-cum-Special Judge,



POCSO, Patna in connection with Bakhtiyarpur P.S. Case No.
51 of 2015.

(Prabhat Kumar Singh, J)

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