

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5326 of 2023

Arising Out of PS. Case No.-858 Year-2023 Thana- KHAGARIA District- Khagaria

1. JAIBU MAHTON @ JAI JAI RAM MAHTO S/O LATE SITARAM MAHTO RESIDENT OF VILLAGE- MATHURAPUR, BIJLI TOLA, P.S. AND DISTRICT- KHAGARIA.
2. MOHAN MAHTO @ MOHAN KUMAR S/O LATE SITARAM MAHTO RESIDENT OF VILLAGE- MATHURAPUR, BIJLI TOLA, P.S. AND DISTRICT- KHAGARIA.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. KUNAL PASWAN SON OF LATE JASO PASWAN RESIDENT OF VILLAGE- MATHURAPUR, P.S.- KHAGARIA, DISTRICT- KHAGARIA

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Ram Sumiran Rai, Advocate
For the State	:	Mr. Binay Krishna, Spl.PP
For Respondent No. 2	:	N o n e

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 19-03-2026 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 16.10.2023 passed in a case registered for the offence punishable under Sections 341, 323, 504 and 34 of the Indian Penal Code and Section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the



prayer for anticipatory bail of these appellants has been rejected.

4. As per prosecution case, on the alleged date and time of occurrence, all the F.I.R. named accused persons, including these appellants, assaulted informant with iron rod and abused him with caste based slurs.

5. It is submitted by learned counsel appearing on behalf of the appellants that appellants are quite innocent and have committed no offence. The present case is counter-blast of Khagaria P.S. Case No. 867 of 2023 which was lodged by nephew of these appellants against informant and others and only with a view to save their skin from the aforesaid case, this false and concocted case has been lodged. Allegation of assault is general and omnibus and no specific accusation of overt act has been alleged against these appellants. Moreover, there is no injury report on record to substantiate the allegations levelled against these appellants. 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.

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 case and counter-case between the parties, this appeal is allowed and the impugned order dated 16.10.2023 passed by the learned Additional Sessions Judge-1st-cum-Special Judge, SC/ST Act, Khagaria in connection with Spl. A.B.A. (SC/ST) No. 32 of 2023 arising out of Khagaria P.S. Case No. 858 of 2023 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 Additional Sessions Judge-1st-cum-Special Judge, SC/ST Act, Khagaria in connection with Khagaria P.S. Case No. 858 of 2023.

(Prabhat Kumar Singh, J)

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