

(2022) 07 PAT CK 0057

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 1193 Of 2022

Haribansh Mahto @ Harbsh Mahto

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 21-07-2022

Acts Referred:

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 2015 — Section 3(1)(r), 14A(2)

Indian Penal Code, 1860 — Section 34, 323, 341, 354

Citation : (2022) 07 PAT CK 0057

Hon'ble Judges : Arun Kumar Jha, J

Bench : Single Bench

Advocate : Dharmendra Kumar Singh, Sadanand Paswan

Final Decision : Allowed

Judgement

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

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

This is an appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015 against the refusal of prayer for grant of anticipatory bail by order dated 10.02.2022 passed by the learned 3rd Additional Sessions Judge-cum-Special Judge, SC/ST Act in connection with Awtar Nagar P.S. Case No. 320 of 2021 registered under Section 341, 353, 324, 504 and 34 of the Indian Penal Code and Section 3(1) (r) of the SC/ST Act.

The prosecution case is that the appellants and one co-accused abused the informant taking her caste name and on her protest, they assaulted her with danda and wooden stick. The appellant Shambhu Mahto tore the clothes of the informant.

Learned counsel for the appellants submits that the appellants are innocent and

have been falsely implicated in this case. For the occurrence of 28.11.2021, the FIR has been registered on 09.12.2021 and there is no explanation for the delay. In fact, the appellants' side has filed a title suit and there is land dispute between the parties. The title suit has been filed prior to the institution of this case. Learned counsel further submits that only a minor scuffle took place, but the allegations have been exaggerated. There is no eye witness to the alleged occurrence. The informant has not received any serious injury. Further only general, vague and omnibus allegations have been levelled against the appellants. Learned counsel further submits that there would be no application of SC/ST Act as the informant stated that she was called by her caste name (Lohar) which does not come under the SC/ST category anymore. Learned Special PP opposes the prayer for bail submitting that the appellants assaulted the informant causing injury to her.

Perused the records.

Having regard to the submissions made here-in-above and further considering the fact that there is land dispute for which title suit is pending and further considering the nature of allegations and also the fact that false allegations cannot be ruled out, let the appellants, above-named, in the event of their arrest or surrender before the Court below, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of the 3rd Additional Sessions Judge-cum-Special Judge, SC/ST Ac, Saran in connection with Awtarnagar P.S. Case No. 320 of 2021 subject to the following conditions:

- (i) One of the bailors will be a close relative of the appellants.
- (ii) The appellants will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the appellants will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal is allowed.