

Balram Kumar @ Balram Kumar Rai vs The State Of Bihar on 21 January, 2025

Author: Anil Kumar Sinha

Bench: Anil Kumar Sinha

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5457 of 2024
Arising Out of PS. Case No.-311 Year-2024 Thana- SHAHPUR PATORI District

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1. Balram Kumar @ Balram Kumar Rai Son of Fakira Ray @ Fakira Rai
Resident of Village - Chandpura, P.S. - Shahpur Patory, District - Samastipur
 2. Rupesh Kumar Ray @ Rupesh Kumar Son of Fakira Ray @ Fakira Rai
Resident of Village - Chandpura, P.S. - Shahpur Patory, District - Samastipur
 3. Balalakhindr Ray @ Bal Lakhindra Rai @ Bala Lakhindra Rai Son of Fakira Ray @ Fakira Rai Resident of Village - Chandpura, P.S. - Shahpur Patory District - Samastipur
 4. Balwant Kumar Rai Son of Fakira Ray @ Fakira Rai Resident of Village - Chandpura, P.S. - Shahpur Patory, District - Samastipur
 5. Abhay Kumar @ Abhay Choudhary @ Abhay Kumar Choudhary Son of Late Shatrudhan Chaudhari @ Late Shatrudhan Choudhary Resident of Village - Chandpura, P.S. - Shahpur Patory, District - Samastipur
 6. Randhir Kumar @ Randhir Choudhri @ Randhir Kumar Choudhary @ Randheer Chaudhri Son of Late Shatrudhan Chaudhari @ Late Shatrudhan Choudhary Resident of Village - Chandpura, P.S. - Shahpur Patory, District - Samastipur
 7. Umesh Prasad Choudhary @ Umesh Choudhary @ Umesh Chaudhri Son of Late Satynaryan Chaudhari @ Late Satya Narain Choudhary Resident of Village - Chandpura, P.S. - Shahpur Patory, District - Samastipur

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Versus

1. The State of Bihar
2. Sheela Devi Wife of Bablu Rajak Resident of Village - Chandpura Chaksaho, Ward No. 13, P.S. - Shahpur Patory, District - Samastipur

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Jitendra Narayan Sinha Ms.Khushi Awadh
For the State	:	Mr.Nawal Kishore Prasad
for the informant	:	Mr. Alok Ranjan Mr. Majid Mahboob Khan

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

1. Heard learned Counsel for the appellants, learned Counsel for the informant and learned Additional Public Prosecutor for the State.

Patna High Court CR. APP (SJ) No.5457 of 2024(3) dt.21-01-2025

2. An order, dated 07.10.2024 passed by learned Special Judge, SC/ST Act, Samastipur, in A.B.P. No. 2348 of 2024, is under challenge in the present appeal preferred under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellants in connection with Patory Police Station Case No. 311 of 2024 registered for the offences punishable under Sections 76/115(2)/126(2)/191(2)/190/303(2)/351 of the Bhartiya Nyaya Sanhita, 2023 and Sections 3 (i) (r)

(s)/3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

3. The prosecution case, as per the First Information Report, is that on 04.08.2024, in the night, while the informant was sleeping in her home and her husband was not present in the home, taking advantage of the same, the appellants, along with other accused persons, started knocking the door of the informant's house and abusing by taking her caste name. They dashed opened the door of the informant's house and on the instruction of appellant no. 5, appellant no. 4 caught hold the informant from back with intention to commit rape. It has further been Patna High Court CR. APP (SJ) No.5457 of 2024(3) dt.21-01-2025 alleged that appellant no. 6 torn the blouse of the informant and touched her inappropriately. When the informant tried to save herself, then appellant nos. 2 and 3 pushed her on the ground, threatened to kill her, appellant no. 7 torn her saree and started assaulting the informant with fists and slaps. The appellant no. 1 inappropriately touched the private parts of the informant and when the informant raised alarm, all the appellants fled away, leaving the informant in that condition.

4. Learned Counsel appearing on behalf of the appellants submits that entire family members, i.e. the appellants, have been made accused due to the fact that Nandoshi (brother-in-law) of the informant was indulged in defalcation of the government money while executing the work of pavement. The appellants raised voice against the conduct of the informant's Nandoshi and filed a complaint before the District Magistrate, Samastipur and filed an informatory petition before the learned Chief Judicial Magistrate, Samastipur.

5. On the other hand, learned Counsel for the respondent no.

2-informant opposes the prayer for anticipatory bail and submits that all the appellants entered into the house of Patna High Court CR. APP (SJ) No.5457 of 2024(3) dt.21-01-2025 the informant in the night, outraged her modesty, tried to commit rape, abused her by taking her caste name, disrobed her and touched her private parts. The appellants are having criminal antecedents of serious nature of offences and in order to established their hegemony, they entered into the house of the informant with an intention to humiliate and harass the informant, thinking that the informant is a member of the schedule caste community. The allegation against the appellants levelled in the First

Information Report prima facie attracts the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the same amounts to committing atrocities against the members of the Scheduled Castes and Scheduled Tribes community. The informatory petition regarding defalcation of the government money by the Nandoshi of the informant was filed on 12.08.2024, i.e. after lodging of the present First Information Report by the informant on 06.08.2024.

6. Having heard learned Counsel for the parties and taking into consideration the nature of allegation made in the First Information Report and the fact that the appellants are having criminal antecedents of serious nature of Patna High Court CR. APP (SJ) No.5457 of 2024(3) dt.21-01-2025 offences, I am not inclined to grant anticipatory bail to the appellants.

7. Accordingly, this appeal is dismissed and the order, dated 07.10.2024, passed by learned Special Judge, SC/ST Act, Samastipura, in A.B.P. No. 2348 of 2024, is hereby affirmed.

(Anil Kumar Sinha, J.) Prabhakar Anand/-

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