

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.800 of 2016

Arising Out of PS.Case No. -68 Year- 2016 Thana -CHAUTHAM District- KHAGARIA

=====

1. Md. Wasim Son of Late Jamaluddin	
2. Md. Mister Son of Md. Kalim	
3. Md. Jahangir Son of Md. Mannan	
4. Md. Gaffar Son of Md. Kailu @ Md. Hasim	
5. Md. Sahabuddin Son of Late Saddique	
6. Md. Akhtar Son of Late Alauddin	
7. Balwant Chaudhary Son of Bisheshwar Chaudhary	
8. Ram Balak Saw Son of Aamod Saw	
9. Naresh Saw Son of Late Kartik Saw All are resident of village - Sarsawa, Police Station Choutham, District – Khagaria	 Appellant/s
Versus	
The State of Bihar	 Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Vivekanand Singh, Advocate Mr. Aarsh Kumar, Advocate
For the Informant	:	Mr. Ranjeet Kumar Singh, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.(SC/ST)Act

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 09-11-2016

This appeal has been preferred under Section under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015 against the order, dated 29.07.2016, passed by learned Sessions Judge, Khagaria in Bail Petition No. 659 of 2016 arising out of Chautham P.S. Case No. 68 of 2016 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 379, 307, 436 and 504 of the Indian Penal Code and Section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989, whereby the applications filed by these appellants for grant of regular bail has been rejected.

2. The appellants are in custody since 12.06.2016 and

21.06.2016.

3. Briefly narrated, the case of the prosecution is that on the alleged date of occurrence on 11.06.2016, the accused persons including these appellants came variously armed to the house of the informant and abused him taking his caste name. There is general allegation against the accused persons of assaulting the informant with lathi and danda. So far as co-accused Md. Mojahid is concerned; there is specific allegation that he opened fire with rifle, which hit at the right leg of the informant. It is also alleged that appellant No. 3 set the hut of the informant on fire and the accused persons took away the maize grains from the informant's house also.

4 . Learned counsel appearing on behalf of the appellants has submitted that though there is allegation against appellant No. 3 of setting the hut of the informant on fire, there is nothing specific to show that burnt articles were found at the place of occurrence. He has also submitted that the appellants have already remained in custody for more than four months and there is no likelihood that they will be fleeing from the course of trial if they are released on regular bail. According to him, there is no chance of influencing the investigation as the investigation is already completed. He has argued that these aspects have not been taking into account by the learned Sessions Judge while rejecting the regular bail application of these appellants.

5. Learned counsel appearing on behalf of the informant

has vehemently opposed the appeal and has submitted that the learned Sessions Judge has rightly refused to exercise his discretion in favour of the appellants for grant of regular bail.

6. However, considering the nature of allegation against these appellants and the fact that there is no indication of any burnt article having been recovered at the place of occurrence, this appeal deserves to be allowed, which is accordingly allowed.

7. The impugned order dated 29.07.2016, passed by learned Sessions Judge, Khagaria in Bail Petition No. 659 of 2016 is, hereby, set aside.

8. Let the appellants, above-named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned District and Sessions Judge, Khagaria in connection with Chautham P.S. Case No. 68 of 2016.

(Chakradhari Sharan Singh, J)

Vats/-c

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.11.2016
Transmission Date	10.11.2016