

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.752 of 2017

Arising Out of PS.Case No. -200 Year- 2016 Thana -MAUZAHDIPUR District- BHAGALPUR

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Madhusudan Kumar & Ors

.... Appellant/s

Versus

State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nagadeo Choubey

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI
ORAL ORDER

3 19-04-2017 Heard learned counsel for the appellants as well as
learned Public Prosecutor.

The informant, father of victim Sagar Paswan had submitted a written report before the O.C. of the concerned P.S. stating therein that on the alleged date and time of occurrence, all the appellants along with others armed variously, raided his house, caught hold his son Sagar Paswan dragged him up to main road where he was brutally assaulted by hockey stick and butt of licensed gun, as a result of which, he sustained severe injury. Furthermore, it has also been incorporated that in order to implicate his son, they have also planted a bomb.

It has been submitted on behalf of the appellants that the allegation whatever been attributed are palpably false. It has also been submitted that virtually the so-called injured alongwith



others hurled bomb on the alleged date and time of occurrence upon the family members of the appellants and others whereupon they were chased by the mohalla people, apprehended and from their possession country-made bomb were recovered for which, on the fard-beyan of Madhusudan Kumar, appellant no.1 Mojahidpur (Babarganj) P.S. Case No. 199 of 2016 has been registered. This case has subsequently been filed in retaliation. So, appellants are entitled for release on anticipatory bail.

Learned Special Public Prosecutor opposed prayer for bail and submitted that there happens to be specific assertion with regard to assault having been made upon a member of Scheduled Caste and further, having case registered under section 307 IPC satisfies the ingredient prescribed under section 3(2)(V) of the Act.

After hearing rival submissions as well as going through the allegation, it is evident that there happens to be specific allegation against the appellants that they have assaulted the victim Sagar Paswan alongwith others which, on account of registration of this case under section 307 IPC, attracts application of Sections 3(2)(V) of the SC/ST (POA) Act, containing sentence of more than ten years.

So far, mode of scrutiny of materials is concerned,



that has been laid down in ***Bisheswar Mishra reported in 2016(4) PLJR 1058 (D.B.)*** wherein the allegation on its face is to be perceived in order to find out whether application of SC/ST (POA) is permissible or not. As stated above, from cursory perusal of the written report, justify application of SC/ST (POA) Act.

Consequent thereupon, the instant appeal lacks merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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