

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Appeal (SJ) No.1145 of 2016**

Arising Out of PS.Case No. -271 Year- 2015 Thana -BARBIGHA District- SEKHPURA

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1.Shailesh Kumar @ Guddu

2. Bhola Kumar

3. Mukesh Kumar@ Lallu all sons of Sadananad Prasad, Resident of Mohalla-Khachiagali ( Barbigha) P.S- Barbigha, Dist- Sheikhpura

.... .... Appellant/s

Versus

The State of Bihar

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr.

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR  
SRIVASTAVA**

**ORAL JUDGMENT**

**Date: 09-01-2017**

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Heard learned counsel for the appellants as well as learned  
Special P.P. for the State and learned counsel for the informant.

2. This criminal appeal, filed under section 14A (2) of the  
SC/ST (Prevention of Atrocities) Amendment Act, is preferred against  
the order dated 06.09.2016 passed by the learned Additional Sessions  
Judge 1<sup>st</sup>, Sheikhpura, in A.B.P.No. 313 of 2016 by which the prayer  
of the appellants for grant of anticipatory bail in connection with  
Barbigha P.S. Case No.271 of 2015 registered for the offences  
punishable under Sections 341, 323, 354-A, 504, 506 and 379/34 of  
the Indian Penal Code and Section 3(i)(x) of the SC/ST Act was  
rejected.



3. Submission on behalf of the appellants is that no case under SC/ST (Prevention of Atrocities) Amendment Act is made out against the appellants and, similarly, sections 354-A and 379 of the Indian Penal Code are also not applicable against the appellants but the learned court below failed to take note of the aforesaid fact and refused to entertain the anticipatory bail application of the appellants. Learned counsel for the appellants further submits that according to the prosecution case itself, it was co-accused Sanjay Kumar, who uttered the caste name of the informant and, as a matter of fact, there is only allegation against the appellant nos. 2 and 3 that they assaulted the informant and so far as appellant no.1 is concerned, the written report of the informant goes to show that he was not present at his shop at the time of alleged occurrence.

4. Considering the aforesaid facts and circumstances as well as submission of the parties, I am of the opinion that the impugned order cannot be sustained in the eye of law. Accordingly, this criminal appeal is allowed and the impugned order dated 06.09.2016 passed by the Additional Sessions Judge 1<sup>st</sup>, Sheikhpura, in A.B.P. No.313 of 2016 is hereby set aside.

5. Accordingly, it is ordered that the appellants, above named, in the event of their arrest/surrender within four weeks from the date of receipt of this order to the court concerned, shall be



released on bail on furnishing bail bonds of Rs. 10,000/-( ten thousand) with two sureties of the like amount each to the satisfaction of the Additional Chief Judicial Magistrate-II, Sheikhpura, in connection with Barbigha P.S.Case No. 271 of 2015. subject to condition as laid down under Section 438(2) of the Cr.P.C.

**(Hemant Kumar Srivastava, J)**

N.K/-

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| AFR/NAFR          | NAFR       |
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