

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1931 of 2017

Arising Out of PS.Case No. -203 Year- 2016 Thana -TURKAULIYA District-
EASTCHAMPARAN(MOTIHARI)

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1. Hakim Mian, Son of Dil Mohammad,
2. Safi Mian, Son of Dil Mohammad,
3. Afroz Mian, Son of Safi Mia,
4. Roz Mian, Son of Safi Mian, null
5. Wajul Mian, Son of Jug Mian. All are residents of Village- Belghatti,
P.S.- Turkauliya, District- East Champaran.

.... Appellants

Versus

The State of Bihar.

.... Respondent

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Appearance :

For the Appellant/s : Mr. Sunil Kumar No.III, Advocate

For the Respondent/s : Smt Usha Kumari No-1, Special P.P.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 10-07-2017 At the outset learned counsel for the appellants has submitted that appellant No.2, Safi Mian, has been arrested during the pendency of this appeal and, as such, the appeal with respect to appellant No.2 has become infructuous.

The appeal with respect to appellant No.2 is dismissed as being infructuous.

Heard learned counsel for the appellants and learned Special P.P.

This appeal has been filed for setting aside the order dated 25.4.2017 passed by 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran, Motihari, in ABP No.



890 of 2017, arising out of Turkauliya P.S.case No. 203 of 2016 instituted under Sections 147, 148, 149, 341, 323, 324, 325, 354, 379, 307, 504 of the Indian Penal Code and 3(1)(x)(xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and for grant of pre-arrest bail to the appellants.

Allegation as per FIR is that appellants have abused the informant by taking her caste name and assaulted her also.

It has been submitted on behalf of the appellants that there is delay of five days in lodging FIR. It has further been submitted that there no specific allegation against appellants Nos. 4 and 5, rather the same is against appellants Nos. 1 and 3.

Learned Special P.P., who has opposed the prayer for pre-arrest bail of the appellants.

Having heard both sides and in view of facts and circumstances, as stated above, the appeal is allowed with respect to appellants Nos. 4 and 5 and the impugned order with respect to them is set aside.

Let the appellants Nos. 4 and 5, named above, surrender in the court of Special Judge within four weeks and on their so surrendering they shall be enlarged on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of 1st



Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran, Motihari, in connection with Turkauliya P.S. Case No. 203 of 2016, subject to the conditions that one of the bailors should be a local person having sufficient immovable properties within the jurisdiction of the court concerned, they will co-operate in investigation of the case and make themselves available as and when required by the Investigating Officer and on the event of failure on their part to appear before him on two consecutive dates without showing any genuine reason, the prosecution is free to move for cancellation of their bail and further they will not induce any witness or tamper with the evidence.

So far prayer for pre-arrest bail of appellants Nos. 1 and 3 is concerned, the appeal is dismissed. Let them surrender and pray for regular bail, which shall be considered on its own merit, without being prejudiced by this order.

Accordingly, the appeal is disposed of.

(Vinod Kumar Sinha, J)

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