

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1074 of 2016

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

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1. Md. Azhar
2. Md. Mazhar Both sons of Late Md. Mahamid.
3. Md. Tipu, son of Md. Mozahid, All the resident of Village- Sarsaba, P.S.
Chautham, District- Khagaria.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Sumiran Rai

For the Respondent/s : Mr. Sri Binay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 27-11-2017 Heard the learned counsels for the appellants as well
as the Spl. P.P.

The appellants are aggrieved by the order dated 20.09.2016 passed by the learned Sessions Judge, Khagaria in connection with Chautham P.S. Case No. 68/2016 instituted for the offences under Sections 147, 148, 149, 341, 323, 379, 307, 436 and 504 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(x) of the SC/ST Act, whereby their prayer for being released on bail in anticipation of arrest has been rejected.

The appellants are alleged to have come to the house of the informant, variously armed with rifle, gun, *lathi*, *danda* etc. and are also stated to have abused the informant with his caste name. When a protest was made, co-accused Md. Mozahid fired from his rifle hitting the right leg of the informant.



Learned counsel for the appellants states that appellant no. 1 is school teacher, whereas, appellant nos. 2 and 3 have been living out of the village for a long time. It has further been submitted that from the bare reading of F.I.R. itself, it would appear that there is a dispute over a plot of land, of which the appellants are owners.

By way of supplementary affidavit, two sale deeds have been brought on record, which indicate that the land actually belongs to the appellants and only when possession was attempted to be effect, the present case has been lodged.

No offence under any one of the provisions of SC/ST Act can at all be said to have been made out.

For the facts stated above, the order dated 20.09.2016 is set aside.

The appellants are directed to be released on bail, in the event of their arrest/surrender before the court below, on their furnishing in the same Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Khagaria in connection with Chautham P.S. Case No. 68/2016.

The appeal is hence allowed.

(Ashutosh Kumar, J.)

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