

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.211 of 2017

Arising Out of PS.Case No. -38 Year- 2016 Thana -SABAUR District- BHAGALPUR

- =====
1. Bitto Singh @ Bittu Singh @ Vitto Singh
 2. Sittu Kumar alias Sittu Singh
- Both S/O Sadanand Singh, Resident of Village- Khankita, P.S.- Sabour,
District- Bhagalpur.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Soni Shrivastava

For the Respondent/s : Mr. Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

6 22-05-2017 Heard the parties.

This appeal has been filed for setting aside order dated 27.6.2016 passed in A.B.P.No.836 of 2016 arising out of Sabour P.S.Case No.38 of 2016 by the Additional District & Sessions Judge, Bhagalpur, registered for the offences under Sections 302 and 34 of the Indian Penal Code and U/S 3(1)(x) of S.C./S.T. (Prevention of Atrocities) Act and also for grant of bail.

Allegation against the appellants is that they called the deceased and thereafter they assaulted him and further allegation is that one co-accused has assaulted by 'Lathi'. The case is under various Sections of the Indian Penal Code as well as Section 325 of the S.C./S.T. (Prevention of Atrocities) Act.

It is submitted on behalf of the appellants that no case is made out under Section 325 of the S.C./S.T. (Prevention of



Atrocities) Act. Further, it is submitted that there is specific allegation of assault by 'Lathi' and there is general and omnibus allegation against the appellants that they have they also assaulted. It is further submitted that the post mortem report does not show any external injury on the person of the deceased.

Heard learned Special P.P. also, who has opposed the prayer for bail stating that there is *prima facie* case under Section 325 of the S.C./S.T. (Prevention of Atrocities) Act.

Having heard both sides and in view of the facts as stated above and this appeal is not maintainable, as such, let the appellants surrender and make prayer for regular bail before the Special court, which will be considered by the learned Special court on the basis of submissions as made above and also considering the fact that there is no external injury on the person of the deceased, and pass appropriate order, if possible on the same day.

With the aforesaid observation, this application is disposed of.

(Vinod Kumar Sinha, J)

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