

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.2126 of 2017

Arising Out of PS.Case No. -38 Year- 2017 Thana -PATAHI District-
EASTCHAMPARAN(MOTIHARI)

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1. Shambhu Sah Son of Badari Sah
2. Sheochandra Sah Son of Tharu Sah
3. Bhairav Prasad @ Bhairo Sah @ Baira Sah Son of Chandra Madhav Sah
4. Munna Sah @ Munna Kumar Sah Son of Sheoji Sah
5. Sheoji Sah Son of Chandra Madhav Sah All residents of Village - Bela
Baiju, P.S. - Patahi, District - East Champaran, Motihari.

.... Appellant/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Devendra Kumar

For the Respondent/s : Mr. Sri Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 26-07-2017 The appellants seek pre arrest bail in connection with

Patahi P.S. Case No. 38 of 2017, registered for offences

punishable under Sections 147, 148, 149, 323, 307, 379, 504 and

506 of the Indian Penal Code and Section 3/4 of Witch Prohibition

Act and Section 3(i)(x) of SC/ST (POA) Act.

Allegation against the appellants that they have abused

the informant by his caste name and also assaulted him.

It has been submitted on behalf of the appellants that so

far appellant nos. 2 and 4 are concerned, no allegation of abusing

the informant has been made against them rather only general and



omnibus allegation has been levelled against them and so far other appellants i.e. appellant nos. 1, 3 and 5 are concerned, though it is alleged that they abused the informant by caste name, however, no such occurrence has taken place and they have falsely been implicated in this case and there is case and counter case between the parties.

Heard learned Special P.P. also.

Having heard both sides, considering the allegation against appellant nos. 1, 3 and 5 a *prima facie* case under the above mentioned Section of SC/ST Act is made out against these appellants, as such, this appeal with regard to appellant nos. 1, 3 and 5 is not maintainable.

Let appellant nos. 1, 3 and 5 surrender before the special court and make prayer for regular bail and if any such application is filed, the special court after considering the submission of learned counsel for the appellant that there is case and counter case between the parties and allegation are general and omnibus in nature, shall pass an appropriate order, preferably on the same day, without being prejudiced by the order of this Court.

So far appellants, namely, Sheochandra Sah and Munna Sah @ Munna Kumar Sah, is concerned, considering the fact that only general and omnibus allegation has been levelled against



them and no allegation attracting the provisions of SC/ST Act has been made against them as such, this appeal so far appellants, namely, Sheochandra Sah and Munna Sah @ Munna Kumar Sah, is concerned, is allowed, let the appellants, namely, Sheochandra Sah and Munna Sah @ Munna Kumar Sah, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bond of Rs. 25,000 (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum- Special Judge, SC/ST (POA) Act, East Champaran, Motihari, in connection with Patahi P.S. Case No. 38 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. This is further subject to the condition that:-

- (i) One of the bailors of the appellants shall be a local person having sufficient immovable property within the jurisdiction of the concerned Court.
- (ii) The appellants shall cooperate in the investigation and make himself available as and when required by the police and on the event of failure on their part to appear before



the police on two consecutive dates without showing any genuine reasons, the prosecution will be free to move for cancellation of their bail bonds.

(Vinod Kumar Sinha, J)

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