

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3196 of 2018

Arising Out of PS. Case No.-260 Year-2017 Thana- BARHARIA District- Siwan

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1. Maksood Alam S/o Late Mahboob Mian
 2. Irfan @ Tunna @ Irfan Ali, S/o Rajiter @ Masarul Haque
 3. Kudrat Mian @ Kudrat Ali, S/o Maksood Alam, All are resident of Village- Kudiyaapur, P.S. Barhariya, District Siwan.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Gajendra Kumar Singh, Advocate
For the Respondent/s : Smt Usha Kumari No-1, SPP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 20-11-2018

Heard learned counsel for the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the refusal of prayer for anticipatory bail vide order dated 11.07.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Siwan, in A.B.P. No. 1073 of 2018, arising out of Barharia Police Station Case No. 260 of 2017, registered under Sections 147/148/149/506 of the Indian Penal Code and Sections 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

According to FIR, the appellants and others came to the house of the informant variously armed and attacked



thereat. However, the police was informed. The police came and the miscreants fled away. The reason for the occurrence is Mahila P.S. Case No.21 of 2017 lodged by a girl of the family of the informant against co-accused Md. Saddam.

Submission of the learned counsel for the appellants is that the said girl did not support the allegation while examined as prosecution witness No.1 in trial bearing POCSO Trial No.83 of 2018, corresponding to Siwan Mahila P.S. Case No.21 of 2017, a copy of deposition is at Annexure-2. Therefore, that case cannot be said to be a reason for commission of the present act on 13.08.2017. Moreover, after investigation the police did not find the allegation true nor sent up the appellants for trial; rather the learned Magistrate had differed with the police report and taken cognizance.

Considering the entire facts aforesaid, let the appellants, above named, in the event of their arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with the aforesaid case, subject to the conditions as



laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the appellants shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellants.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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