

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1309 of 2019**

Arising Out of PS. Case No.-9 Year-2019 Thana- UCHKAGAON District- Gopalganj

1. MAINA DEVI Wife of Sheshnath Chaudhary Resident of Village- Mauza Luhasi, Nawka Tola, P.S.- Uchkagaon, District- Gopalganj.
2. Basudeo Chaudhary @ Basudeo yadav Son of Munshi Chaudhary Resident of Village- Mauza Luhasi, Nawka Tola, P.S.- Uchkagaon, District- Gopalganj.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Anurag Saurav
For the Respondent/s	:	Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

4 02-08-2019 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

This is an appeal under Section 14 (A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 31.2.2019 passed by learned 1st Additional Sessions Judge, Gopalganj in connection with Uchkagaon P.S. Case No. 09 of 2019, registered under Section 341, 323, 324, 307, 504, 34 of the Indian Penal Code and also under Section 3 (i) (r) 2 (5a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Over row between children during the course of playing cricket seven named accused persons including the appellants armed with lathi, bat and sickle started assaulting the informant and others and slated the informant in the name of his caste. Appellant Maina Devi assaulted twice on the head of the informant by means of sickle inflicting head injury to him, while appellant Basudeo Choudhary assaulted twice on the head of the Pradeep Kumar Ram by means of bat resultantly he became unconscious.

It is submitted by the learned counsel for the appellant that no such occurrence as alleged ever took place. They have been falsely implicated in this case over petty dispute ensued during course of playing cricket between the children. The allegation of slating the informant in the name of his caste levelled against the appellants is not specific rather general and omnibus in nature. Injured informant has sustained only one injury on his head as simple in nature caused by hard and blunt substance. As the occurrence took place during the course of playing cricket hence there was no premeditation of mind to eliminate the victims. Hence, no offence U/s 307 of the I.P.C. is made out against the appellant. Appellants have no criminal antecedent. Co-accused Satish Kumar Chaudhary and Guddu



Kumar Chaudhary have been enlarged on bail by a co-ordinate Bench of this Court passed in Criminal Appeal (SJ) No. 1310 of 2019 vide order dated 21.05.2019.

On the other hand, learned Spl. P.P. for the State and learned counsel appearing on behalf of the informant opposing the prayer for bail submitted that despite slating the informant appellant Basudeo Choudhary also assaulted on the head of victim Pradeep Kumar Ram by means of bat inflicting head injury which is grievous in nature hence appellants do not deserve bail.

Having regard to the facts and circumstances of the case, the Court is not inclined to enlarge the appellant No. 2 Basudeo Chaudhary @ Basudeo Yadav on bail. Accordingly, his bail prayer is rejected.

However, the appellant No. 2 is directed to surrender before the learned Court below within six weeks from today and seek regular bail and the learned Court below is directed to pass an order in accordance with law without being prejudice by this order.

Appellants no.1 Maina Devi is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the



satisfaction of the learned 1st Additional Sessions Judge
Gopalganj in connection with Uchkangaon P.S. Case No. 09 of
2019, subject to condition as laid down under Section 438 (2) of
the Cr.P.C.

Accordingly, the present appeal is disposed of.

(Prakash Chandra Jaiswal, J)

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