

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1686 of 2019

Arising Out of PS. Case No.-78 Year-2018 Thana- DAUDNAGAR District- Aurangabad

1. Santosh Chandrabansi Son of Krishna Chandrabanshi @ Krishna Prasad Resident of Village - Ramnagar, P.S.- Daudnagar, District - Aurangabad
2. Rahul Chandrabansi Son of Satendra Chandrabansi Resident of Village - Ramnagar, P.S.- Daudnagar, District - Aurangabad
3. Tuntun Kumar Son of Satendra Chandrabansi Resident of Village - Ramnagar, P.S.- Daudnagar, District - Aurangabad
4. Manish Kumar Son of Sheopujan Chandrabanshi Resident of Village - Ramnagar, P.S.- Daudnagar, District - Aurangabad
5. Rohit Kumar Son of Satendra Chandrabansi Resident of Village - Ramnagar, P.S.- Daudnagar, District - Aurangabad
6. Saurabh Kumar Son of Jagdish Chandrabansi Resident of Village - Ramnagar, P.S.- Daudnagar, District - Aurangabad

... .. Appellants.

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Singh
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

4 04-07-2019 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

The appellants seek pre-arrest bail in connection with Daudnagar P.S. Case No.78 of 2018 registered under Sections 341, 323, 504 & 506/34 of the Indian Penal Code and Section 3 (1) (r)/3 (s)/3 (2) (va) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989.

During the course of proceeding to market by the



informant and his son-in-law all the accused persons including the appellants surrounded them and assaulted them. Sonu Kumar assaulted him by means of iron rod and Rohit Kumar assaulted his son-in-law by means of lathi danda. After hearing hulla when his mother, uncle and other persons reached there they escaped from the place of occurrence.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. Appellants have been falsely implicated in the case due to dirty village politics. There is no allegation of slating the informant in the specific name of his caste. Hence, no offence under Section SC/ST Act is made out against the appellants. Appellants have no criminal antecedent.

Learned Spl. PP for the State opposing the prayer for bail submitted that the appellants are on police bail, hence anticipatory bail is not maintainable.

It is settled principle of law that once the appellants have been granted bail either by the police or by the Court, the petition under Section 438 Cr.P.C. on behalf of the appellants is not maintainable.

In that view of the matter, the present appeal is rejected with a direction to the appellants to surrender before the



learned Court below within six weeks from today and seek regular bail and the learned lower Court would consider the same without being prejudiced by this order on the date of surrender.

It goes without saying that the appellants shall be granted the benefit of the judgment of this Court rendered in the case of **Mahendra Prasad Singh Vs. The State of Bihar** reported in **2004 (3) PLJR 491** and particularly para-5 of the judgment.

With the aforesaid observation and direction, this appeal stands disposed of.

(Prakash Chandra Jaiswal, J)

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