

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2262 of 2019

Arising Out of PS. Case No.-249 Year-2018 Thana- PIRPAINTI District- Bhagalpur

1. Md. Fakruddin Son of Mostap Miyan @ Mustafa Miyan Resident of Village - Binova Tola, P.S.- Pirpainti, Dist.- Bhagalpur.
2. Md. Jahangir Miyan Son of Jalil Miyan Resident of Village - Binova Tola, P.S.- Pirpainti, Dist.- Bhagalpur.
3. Md. Babul Miyan @ Md. Shamim @ Bablu Miyan Son of Nakir Miyan @ Md. Namkir Ansari Resident of Village - Binova Tola, P.S.- Pirpainti, Dist.- Bhagalpur.
4. Md. Pappu Miyan @ Md. Pappu, Son of Roshtam Miyan @ Md. Roshtam Resident of Village - Binova Tola, P.S.- Pirpainti, Dist.- Bhagalpur.
5. Md. Ibrar Miyan @ Md. Ebrar Son of Bakrid Miyan Resident of Village - Binova Tola, P.S.- Pirpainti, Dist.- Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Tarun Prasad Mandal
For the Respondent/s	:	Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

4 23-08-2019 Heard learned counsel for the appellants and learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer of anticipatory bail vide order dated 28.03.2019 passed by learned 3rd Addl. District & Sessions Judge cum Special Judge, SC/ST Act, Bhagalpur in Pirpainti P.S. Case No. 249 of 2018 registered under Sections 147, 148, 149, 341, 323, 324, 307, 448, 379, 504, 506 of the



Indian Penal Code and Sections 3(1)(r), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellants armed with weapons are said to have descended at the disputed land and started cultivating maize crops, and on protest, co-accused Nakir Miya assaulted the informant by means of sword. When Akhilesh Rajak, Mithun Rajak, Umesh Rajak, Purni Devi and Koyal Kumari arrived there, all the accused persons assaulted them by means of lathi, sword and rod and they also committed theft intruding into the house of gotiya of the informant.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in this case as the co-accused Md. Rustam has lodged Pirpainti P.S. Case No. 248/2018 against the informant and others preceding to the case under hand. Title Suit bearing T.S. No. 119/02 is pending between the parties over property in question. Allegation levelled against the appellants is not specific rather general and omnibus in nature. Injury sustained by the informant is simple in nature. Though, injury of Mithun Rajak is grievous in nature, but on the non-vital part i.e. on the right hand and the injury



report of Anita Devi is reserved, but the said injury is on non-vital part and moreover opinion has been reserved on 18.11.2018 and even after lapse of nine months, final injury report has not been brought on record by the prosecution. Other persons have sustained simple injury.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, let the above named appellants be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned 3rd Addl. District & Sessions Judge cum Special Judge, SC/ST Act, Bhagalpur in connection with Pirpanti P.S. Case No. 249 of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Prakash Chandra Jaiswal, J)

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