

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2873 of 2019

Arising Out of PS. Case No.-14 Year-2019 Thana- PATAHI District- East Champaran

1. Brahmdeo Mukhiya aged 45 years, Gen.-Male, Son of Late Shiv Mukhiya Resident of village- Dumari Govind (Chhotka Balua), Police Station- Patahi, District- East Champaran.
2. Girdhari Mukhiya, aged 25 years, Gen.- Male Son of Late Shiv Mukhiya Resident of village- Dumari Govind (Chhotka Balua), Police Station- Patahi, District- East Champaran.
3. Ritik Kumar @ Madhurendra Kumar, aged 20 years, Gen.- Male, Son of Rajdhari Mukhiya Resident of village- Dumari Govind (Chhotka Balua), Police Station- Patahi, District- East Champaran.
4. Mintu Kumar @ Mintu Klumar, aged 25 years, Gen.-Male, Son of Punyadev Mukhiya Resident of village- Dumari Govind (Chhotka Balua), Police Station- Patahi, District- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mahendra Paswan, aged about 60 years, Gender-Male, son of Late Nathuni Paswan Resident of village- Dumari Govind (Chhotka Balua), Police Station- Patahi, District- East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Madhurendra Kumar, Advocate
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 16-11-2019

Heard learned counsel for the appellants. Nobody appears on behalf of the State.

2. The appellants apprehend arrest in connection with Patahi PS Case No. 14 of 2019 instituted under Sections 448, 323, 354(B), 436, 504, 506, 34 of the Indian Penal Code and 3(1)(w) of



the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Act').

3. The allegation against the appellants is that they came to the house of the informant and against another co-accused, who is not before the Court, specifically of burning the house. Against the appellants, the allegation is that they had come to the house of the informant and had abused taking caste name. Especially, against the appellants no. 3 and 4, the allegation is of assault by fists, slaps and kicks.

4. Learned counsel for the appellants submitted that the allegation was mainly against co-accused Rajdhari Mukhiya, who has been granted the privilege of anticipatory bail by order dated 09.09.2019 in Criminal Appeal (SJ) No. 2759 of 2019.

5. Having gone through the FIR, the Court finds that there is vague and general/omnibus allegation against the appellants no. 1 and 2, which may not bring them under the purview of Act. However, with regard to appellants no. 3 and 4, there being a specific allegation that they caught hold and assaulted the son of the informant after making him fall on the ground, *prima facie*, offence under the Act having been made out, the bar of Section 18 of the Act could not entitle consideration of



their prayer under Section 438 of the Code of Criminal Procedure, 1973.

6. For reasons aforesaid, the application stands disposed off by directing that in the event of arrest or surrender before the Court below within four weeks from today, the appellants no. 1 and 2 be released on bail upon furnishing bail bonds of Rs. 25,000/- (Twenty Five thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge cum Special Judge SC/ST, East Champaran at Motihari in Patahi PS Case No. 14 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

7. The prayer on behalf of appellants no. 3 and 4 stands rejected.

8. However, in case, they appear before the Court below and pray for bail, within four weeks from today, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

