

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3004 of 2019

Arising Out of PS. Case No.-89 Year-2019 Thana- KHIJARSARAI District- Gaya

1. PRAMOD KUMAR Son of Krishna Mahto Resident of village- Khushalpur, P.S. Khizarsarai, District- Gaya.
2. Vikash Kumar Son of Keshwar Prasad @ Keshar Mahto Resident of village- Khushalpur, P.S. Khizarsarai, District- Gaya.
3. Sujit Kumar @ Karu Son of Chhathu Mahto Resident of village- Khushalpur, P.S. Khizarsarai, District- Gaya.
4. Keshwar Prasad @ Keshar Mahto Son of Late Janki Mahto Resident of village- Khushalpur, P.S. Khizarsarai, District- Gaya.
5. Ram Sagar Prasad Son of Late Janki Mahto Resident of village- Khushalpur, P.S. Khizarsarai, District- Gaya.
6. Ram Jatan Prasad Son of Late janki Mahto Resident of village- Khushalpur, P.S. Khizarsarai, District- Gaya.
7. Angad Kumar @ Angad Prasad Son of Late Sugriv Mahto Resident of village- Khushalpur, P.S. Khizarsarai, District- Gaya.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

with

CRIMINAL APPEAL (SJ) No. 3043 of 2019

Arising Out of PS. Case No.-89 Year-2019 Thana- KHIJARSARAI District- Gaya

1. PANKAJ KUMAR Son of Chandeshwar Mahto Resident of Village- Khushalpur, P.S.- Khizarsarai, District- Gaya
2. Bipin Kumar @ Bipin Mahto Son of Raghunandan Mahto Resident of Village- Kewali, P.S.- Khudaganj, District- Nalanda.

... .. Appellant/s

Versus

The State of Bihar

.. Respondent

Appearance :

(In CRIMINAL APPEAL (SJ) No. 3004 of 2019)

For the Appellant/s : Mr.Ajit Kumar Singh

For the Respondent/s : Mr.Usha Kumari 1

(In CRIMINAL APPEAL (SJ) No. 3043 of 2019)

For the Appellant/s : Mr.Ajit Kumar Singh

For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 16-11-2019

Since both the appeals, under Section 14A(2) of the



Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, arise out of same Khizarsarai P.S. Case No. 89 of 2019 and in both the cases, orders passed by the Special Judge SC/ST, Gaya dated 08.05.2019 and 17.06.2019 refusing the appellants' prayer for anticipatory bail as sought in A.B.P. No. 95 of 2019 and A.B.P. No. 131 of 2019 are being assailed, the same have been heard together and are being disposed of by present common order.

The First Information Report discloses commission of offence punishable under Sections 147, 148, 149, 341, 323, 307, 379 and 354 of the Indian Penal Code and Sections 3(1)(r) and 3(1)(w) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

It is alleged in the First Information Report that when the sons of the informant were standing near a plot of land, the persons named in the First Information Report came and assaulted them variously with iron rod. There is allegation against appellant No.2 of Cr. App. (SJ) No. 3043 of 2019 of having assaulted the informant with the butt of pistol. They are said to have used abusive language taking caste name of the informant.

Learned counsel appearing on behalf of the appellants



has submitted that since the informant was filling earth over a *gair mazarua* land, which could have caused obstruction to the appellants, an objection was raised by them, whereafter free fight between the parties had taken place leading to lodging of the present First Information Report and Khizarsarai P.S. Case No. 90 of 2019. He submits that both the sides had sustained injuries. He contends that had there been no allegation with reference to commission of the offence punishable under the Act, there would have been no occasion for the court below to have refused the prayer of the appellants for their release on anticipatory bail. He contends that the allegation constituting offence punishable under the Act is vague.

Pursuant to an order of this Court, case diary has been called for, which I have perused. On perusal of the case diary, I find that most of the injuries have been found to be simple and in respect of certain injuries, opinion has been reserved awaiting report from the hospital.

On perusal of the First Information Report and the case diary, I am of the view that it is difficult for this Court to record that no offence under the provisions of the Act is made out and there being bar under Section 18 of the Act, anticipatory bail application has rightly not been maintained by the court



below. I do not find legal infirmity with the impugned orders requiring this Court's interference in the present appeals.

However, in the facts and circumstances of the case and the nature of accusation, I consider it apt to dispose of the appeal with an observation that if the appellants appear before the court below and apply for regular bail within one month from today, their application for regular bail shall be considered and disposed of on the same day.

(Chakradhari Sharan Singh, J)

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