

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3919 of 2019**

Arising Out of PS. Case No.-64 Year-2017 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. MAULADIN MIYAN Son of Late Fhulan Miya Resident of Village- Barwa Ojha, P.S.- Sanichari, District- West Champaran
 2. Jamaludin Ansari @ Md. Jamaludin Ansari @ Jalauddin Miyan Son of Mauladin Miyan Resident of Village- Barwa Ojha, P.S.- Sanichari, District- West Champaran
 3. Noorshasan Husain @ Md. Noorshasah Husain @ Noorhasan Miyan @ Noor Husain Miyan Son of Jamaludin Ansari @ Md. Jamaludin Ansari @ Jalauddin Miyan Resident of Village- Barwa Ojha, P.S.- Sanichari, District- West Champaran
 4. Meerahasan Ansari @ Meerhasan Miyan @ Meerhusain Miyan Son of Jamaludin Ansari @ Md. Jamaludin Ansari @ Jalauddin Miyan. Resident of Village- Barwa Ojha, P.S.- Sanichari, District- West Champaran
 5. Md. Reza Hussain @ Raja Hussain Miyan Son of Jamaludin Ansai @ Md. Jamaludin Ansari @ Jalauddin Miyan Resident of Village- Barwa Ojha, P.S.- Sanichari, District- West Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Avinash Shekhar
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

3 16-12-2019 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

The instant appeal under section 14A(2) of the SC and
ST (Prevention of Atrocities) Act has been preferred against the
rejection of bail of the appellants vide order dated 16.07.2019
passed in A.B.P. No.1591 of 2019 arising out of Complaint Case
No. 64 of 2017 (Tr.No. 27 of 2019) wherein cognizance has



been taken for offence under sections 147,323,341 and 504 of the Indian Penal Code and section 3(i) of the SC and ST (Prevention of Atrocities) Act.

As per allegation in the complaint, for putting up a pole, it is stated by the complainant that she was assaulted, abused in the name of her caste and beaten up. It is further submitted that the accused persons took away her silver ornaments and in spite of her going to the police station her case was not registered.

It is submitted by learned counsel for the appellants that after enquiry, by order dated 23.3.2019 (Annexure-2) cognizance was taken in different sections of the Indian Penal Code which were all bailable and also under section 3(1) of the S.C./S.T. (Prevention of Atrocities) Act. It is submitted that from the facts brought on record in the instant application no offence under the SC/ST Act would be made out. It is further evident that the same has been made for oblique reasons because of prior enmity. In support of enmity learned counsel for the appellant draws the Court's attention to the judgment in Title Suit No.59 of 1992 and Title Appeal No. 14 of 2014 brought on record as Annexure-3 and 4 to the application and to the statement made in paragraph 11 wherein it has been stated that



on earlier occasion also the complainant lodged a criminal case against some of the appellants and his family members which has resulted in acquittal. The appellants in his submissions also relies on the judgment of Hon'ble Supreme Court in the case of **Dr. Subhash Kashinath Mahajan versus the State of Maharashtra** reported in (2018)6SCC 454.

It is submitted by learned counsel for the complainant that there is a direct allegation against the appellants of having assaulted the complainant and from reading of the complaint offence under the SC/ST Act is also made out. It is further submitted that this is not a case for grant of anticipatory bail, as the same would not be maintainable.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the nature of allegations, history of litigation between the parties, the order taking cognizance wherein besides the offence under SC/ST Act cognizance has been taken under bailable sections and the judgment of the Hon'ble Supreme Court relied upon by the appellants, this Court is inclined to enlarge the appellants above named on bail. The appellants are directed to be enlarged on bail in the event of their arrest or surrender within six weeks, 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 Additional District and Sessions Judge 1st cum Special Judge, SC/ST/POCSO), Bettiah, West Champaran in connection with Complaint Case No. 64 of 2017/Tr.27 of 2019 (District West Champaran) subject to the conditions stipulated under section 438(2) of the Code of Criminal Procedure.

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

(Partha Sarthy, J)

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