

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4176 of 2019

Arising Out of PS. Case No.-166 Year-2019 Thana- MOHANIYA District- Kaimur (Bhabua)

1. JAI PRAKASH @ JAI PRAKASH SINGH Son of Jag Narayan Kushwaha @ Jag Narayan Singh Resident of Village- Muthani, P.S.- Mohania, District- Kaimur (Bhabhua).
2. Rajesh Kushwaha @ Rajesh Kumar Singh Son of Late Ram Briksh Kushwaha Resident of Village- Muthani, P.S.- Mohania, District- Kaimur (Bhabhua).
3. Vivek Kushwaha @ Vivek Kumar Singh Son of Rajesh Kushwaha Resident of Village- Muthani, P.S.- Mohania, District- Kaimur (Bhabhua).

... .. Appellants

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 29-11-2019 Heard learned counsel for the appellants. No one appears on behalf of the State.

The appellants are seeking to challenge the order dated 16.08.2019 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Kaimur at Bhabua in A.B.P. No. 850 of 2019 arising out of Mohania P.S. Case No. 166 of 2019 registered for the offences punishable under Sections 341, 323, 324, 504, 506, 379 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(i) (r) (2) (va) of the SC/ST (Prevention of Atrocities) Act whereby their prayer for anticipatory bail has been rejected.



Learned counsel for the appellants submits that on a perusal of the first information report it would appear that there had been some quarrel with regard to a piece of land, there is case and counter case giving two different versions of the story. The appellants' side has also suffered injuries in the alleged occurrence.

Case diary has been received in this case from which it appears that the informant and his brother were assaulted and they have received two injuries each. From perusal of the FIR it appears that the informant has alleged firstly against Jai Prakash Singh and Vijay Shankar Kushwaha saying that they had come at the place of occurrence with Tangi in their hands and they started assaulting both the brothers on their head. So far as appellant no. 2 is concerned, he is said to have threatened by firing in the air and thereafter, Vivek Kushwaha and Vikash Kushwaha both came and started assaulting the informant and his brother.

Learned counsel for the appellants submits that the injuries present on the body of the informant and his brother are specifically attributed to Jai Prakash Singh and Vijay Shankar Kushwaha. So far as appellants no. 2 and 3 are concerned, allegation against them are not substantiated from the materials available in the case diary.



Having heard learned counsel for the appellants and on perusal of the records, this Court finds that so far as appellant no. 1 Jai Prakash @ Jai Prakash Singh is concerned, he cannot be granted privilege of anticipatory bail in view of the specific allegation against him. Accordingly, his (appellant no. 1) prayer for anticipatory bail is refused.

So far as appellants no. 2 and 3 are concerned, though against them allegations have been made but those allegations have not been substantiated from the materials available on the record. The Dy. Superintendent of Police in his supervision has stated that no material for offence under Section 27 of the Arms Act is available.

In that view of the matter the impugned order dated 16.08.2019 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Kaimur at Bhabua in A.B.P. No. 850 of 2019 arising out of Mohania P.S. Case No. 166 of 2019 in respect of appellants no. 2 and 3 is hereby set-aside.

Let the appellants no. 2 and 3 above named in case of their arrest or surrender within a period of four weeks from today in connection with Mohania P.S. Case No. 166 of 2019 be released on bail on furnishing of bail bond of Rs. 15,000/- (fifteen thousand) each with two sureties of the like amount



each to the satisfaction of learned Ist Additional Sessions Judge-cum-Special Judge, Kaimur at Bhabua, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

avin/-

U		T	
---	--	---	--

