

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4632 of 2019

Arising Out of PS. Case No.-58 Year-2019 Thana- JIRADEI District- Siwan

1. UTTAM NONIYA @ UTTIM CHAUHAN Son of Suraj Noniya @ Suraj Chauhan Resident of Village- Karhanu, P.S- Jiradei, District- Siwan.
2. Upendra Chauhan Son of Chandrama Chauhan Resident of Village-Karhanu, P.S-Jiradei, District-Siwan.
3. Sanjay Chauhan Son of Ramayan Chauhan @ Ramayan Chouhan Resident of Village-Karhanu, P.S-Jiradei, District-Siwan.
4. Dinesh Chauhan @ Dinesh Kumar Chauhan Son of Jagat Chauhan Resident of Village-Karhanu, P.S-Jiradei, District-Siwan.
5. Bhim @ Prakash Chauhan Son of Kapildeo Chauhan Resident of Village-Karhanu, P.S-Jiradei, District-Siwan.
6. Raja Ram Chauhan Son of Parshuram Chauhan @ Matavar Chouhan Resident of Village-Karhanu, P.S-Jiradei, District-Siwan.
7. Kishan Chauhan @ Kisan Chauhan @ Krishna Chauhan Son of Baijnath Chauhan Resident of Village-Karhanu, P.S-Jiradei, District-Siwan.
8. Sunil Kumar @ Sunil Chauhan Son of Raja Ram Chauhan Resident of Village-Karhanu, P.S-Jiradei, District-Siwan.
9. Shambhu Chauhan Son of Raja Ram Chauhan Resident of Village-Karhanu, P.S-Jiradei, District-Siwan.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Prashant Kumar

For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 16-12-2019 It is submitted by learned counsel for the petitioner that during pendency of this appeal, appellant nos. 2, 3, 4 and 8 have been taken into custody and, as such, he is not pressing the application with respect to appellant nos. 2, 3, 4 and 8.

Thus the appeal, so far as it relates to appellant nos. 2, 3, 4 and 8 is dismissed as not pressed.

Heard learned counsel for the appellants and learned



Special Public Prosecutor for the State.

The interim appeal under section 14A(2) of the SC and ST (Prevention of Atrocities) Act has been preferred against the rejection of appeal of the appellant vide order dated 16.08.2019 passed in A.B.P. No. 1438 of 2019 arises from Jiradei P.S. Case No. 58 of 2019 registered for offence under sections 147, 149, 447, 324, 307, 379 and 504 of the Indian Penal Code and section 3(i)(r)(s) of the SC and ST (Prevention of Atrocities) Act.

As per allegation made in the FIR, 10 named accused persons including the five appellants assaulted the informant and his family members, abused them in the name of their caste and took away Rs. 15,000/- from the pocket of the informant's father.

It is submitted by the learned counsel for the appellants that from the injury report of the informant and his family members brought on record as Annexure-2 series to this application, the same do not support the allegations as made in the FIR. The allegations levelled in the FIR are not only general and omnibus but also vague as there is no details as to who are the assailants. It is further submitted that there is case and counter case between the parties. The correct version of the



occurrence has been narrated in the FIR of Jiradei P.S. Case No. 59 of 2019 brought on record as Annexure-3 to the application. It is finally submitted that for the alleged occurrence no offence under the SC/ST (Prevention of Atrocities) Act would be made out against the appellants.

Having heard learned counsel for the appellants and learned Special Public Prosecutor for the State and taking into consideration that the alleged occurrence is not stated to have been witnessed by other witnesses, the allegation as levelled in the FIR are general and vague in nature and that the appellants have no criminal antecedent, the court is inclined to enlarge the appellants on bail. Appellants are directed to surrender in the court below within a period of six weeks from today and in the event of their arrest or surrender, they shall be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge (SC/ST Act), Siwan in connection with Jiradei P.S. Case No. 58 of 2019, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Partha Sarthy, J)

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