

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3535 of 2018

Arising Out of PS. Case No.-75 Year-2018 Thana- MOHIUDDIN NAGAR District-
Samastipur

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Chandan Rai @ Chandan Kumar S/o Ram Udgar Rai, resident of Village-
Mahamadipur, Police Station- Mohiuddin Nagar, District- Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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with
Criminal Appeal (SJ) No. 3567 of 2018

Arising Out of PS. Case No.-75 Year-2018 Thana- MOHIUDDIN NAGAR District-
Samastipur

- =====
1. Indrajeet Sah @ Pawan Sah,
 2. Triloki Sah Both are Sons of Bishwanath Sah,
 3. Sunil Mishra S/o Bashistha Mishra, All are R/o Vill.- Mohamadipur, P.S.-
Mohiuddin Nagar, District- Samsastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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with
Criminal Appeal (SJ) No. 4565 of 2018

Arising Out of PS. Case No.-75 Year-2018 Thana- MOHIUDDIN NAGAR District-
Samastipur

- =====
1. Upendra Rai @ Upindra Rai, son of Sharan Rai
 2. Pawan Rai @ Pawan Kumar, son of Upendra Rai.
Both residents of village - Mohmaddipur, P.S.- Mohiuddin Nagar, District-
Samsastipur.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

(In Criminal Appeal (SJ) No. 3535 of 2018)

For the Appellant/s : Mr.Lakshmindra Kumar Yadav

For the Respondent/s : Mr.Sri Sadanand Paswan

(In Criminal Appeal (SJ) No. 3567 of 2018)

For the Appellant/s : Mr.Lakshmindra Kumar Yadav



For the Respondent/s : Mr.Sri Sadanand Paswan
(In Criminal Appeal (SJ) No. 4565 of 2018)
For the Appellant/s : Mr.Bhaskar Shankar
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 04-01-2019 All the aforesaid three appeals arising out of the same police case, hence, they are being disposed of by this common order.

The aforesaid appeals have been preferred under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer of anticipatory bail dated 10.08.2018 passed by 1st Additional Sessions Judge, Samastipur in ABP No. 1582 of 2018 and ABP No. 1619 of 2018 [Cr.Appeal (SJ) No.3535 of 2018 & Cr.Appeal(SJ) No.3567 of 2018] and vide order dated 08.10.2018 passed in ABP No. 2266 of 2018 [Cr. Appeal (SJ) No.4565 of 2018] arising out of Mohiuddin Nagar P.S.Case No. 75 of 2018 registered under Sections 147, 148, 149, 307, 323, 324, 341, 504 and 506 of the Indian penal Code and Section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 .

Allegation, as per the FIR, is that while the informant was getting the field ploughed, all the appellants along with 10-15 unknown persons armed with *lathi*, *Bhala*, sword, country



made pistol and iron rod came and abused him by caste name. Appellant Pawan Rai (in Cr. Appeal (SJ) No. 4565 of 2018) fired with country made pistol, but it did not hit anybody, appellant Chandan Rai (in Cr. Appeal (SJ) No. 3535 of 2018) gave a *farsa* blow on the head of the informant and other assaulted him with *lathi*, *danda* and rod, causing him injuries.

Submission of learned counsels for the appellants is that there is land dispute in between the parties and there is general and omnibus allegation against all the appellants, though there is allegation against appellant Chandan Rai @ Chandan Kumar (Cr. Appeal (SJ) No. 3535 of 2018) of assaulting the informant by *farsa* blow but injury caused is simple in nature.

In Cr. Appeal (SJ) No. 4565 of 2018, it is submitted that allegation against appellant no. 1, Upendra Rai, is general and omnibus and allegation against appellant no. 2, Pawan Rai, is of firing but FIR itself shows that it did not hit anybody and there is case and counter case in between the parties.

Heard learned Spl. P.P also, who has opposed the prayer of bail on the ground that opinion on injury caused to the informant has been kept reserved and there is specific allegation of assault against appellant Chandan Rai.

Having heard both sides and in view of the facts and



circumstances, as stated above, so far as appellant Chandan Rai @ Chandan Kumar [Cr. Appeal (SJ) No. 3535 of 2018] is concerned, I am not inclined to grant privilege of anticipatory bail to him. However, appeal is disposed of with a direction to the trial court that if Chandan Rai surrenders before the court below within a period of six weeks from the date of receipt/production of a copy of this order and prays for regular bail, the same shall be considered on the materials available on record as well as the injury found on the person of the informant, on the same day, if possible.

So far as appellants with respect to Cr. Appeal (SJ) No. 3567 of 2018 and Cr. Appeal (SJ) No. 4565 of 2018 are concerned, in the event of arrest or surrender before the court below within a period of six weeks from the date of receipt/production of a copy of this order, they are directed to be released on bail upon furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge-cum-ADJ-1st SC/ST Act, Samastipur in ABP No. 1582 of 2018 and ABP No. 2266 of 2018 respectively arising out of Mohiuddin Nagar P.S.Case No. 75 of 2018; subject to condition as laid down under Section 438(2) of the Code of Criminal



Procedure with further condition that appellants shall co-operate in the investigation and make themselves available as and when required by the police and on the event of failure on their part to appear before the police on two consecutive dates without showing any genuine reasons, the prosecution is free to move for cancellation of their bail bonds.

Accordingly, Cr. Appeal (SJ) No. 3567 of 2018 and Cr. Appeal (SJ) No. 4565 of 2018 are allowed and the impugned order dated 10.08.2018 and 08.10.2018 are set aside.

(Vinod Kumar Sinha, J)

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