

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5437 of 2019

Arising Out of PS. Case No.-367 Year-2018 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. MD. SHAH HAROON @ SHAHARUN MIYAN @ MD. SHAH HARUN ALAM Son of Md. Jalo @ Jalil Ansari @ Juli Ansari Resident of Village - Anti, P.S.- Anti, Distt - Gaya.
 2. Md. Akbar @ Akabar Miyan Son of Md. Khalid Ahamed Resident of Village - Anti, P.S.- Anti, Distt - Gaya.
 3. Arbind Sharma @ Arvind Sharma Son of Rajendra Sharma Resident of Village - Anti, P.S.- Anti, Distt - Gaya.
 4. Md. Musakur Miyan @ Md. Mashkur Alam Son of Naimuddin Resident of Village - Anti, P.S.- Anti, Distt - Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Manish Kumar No2

For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 10-12-2019 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

The appellants apprehend their arrest in a case registered for the offence punishable under sections 147,148,323,324,307,392,354 and 34 of the Indian Penal Code, section 27 of the Arms Act and section 3(1)(r) (s) of the S.C/S.T (Prevention of Atrocities) Act.

As per the allegation in the complaint filed by the complainant, it is stated that on 5.3.2018 after dinner the accused persons including the appellants herein entered in the



house of the complainant and on the point of pistol tied up the complainant and the members of his family, beat them up and assaulted the family members. Thereafter it is stated that they abused them in the name of the complainant's caste.

It is submitted by learned counsel for the appellants that from perusal of the complaint itself it appears that although the occurrence is said to have taken place on 5.3.2018, however, without any explanation for the same, the complaint was filed only on 9.3.2018. It is further submitted that the occurrence has taken place in the manner other than what has been narrated in the complaint for the occurrence and an F.I.R. was lodged by Ajay Saho (who has also been made accused in Complaint Case No. 367 of 2018) and it has been brought on record as Annexure-2 to the application. In the said F.I.R. at Annexure-2 the son of the complainant Baburam Paswan besides other are named accused. It is in retaliation to the F.I.R. at Annexure-2 and as an afterthought that the instant complaint has been filed. Further from the complaint itself it appears that the occurrence has taken place inside the house of the complainant which cannot be said to be in public view and as such no offence under the S.C./S.T Act is made out and the instant application filed for anticipatory bail would be maintainable. It is finally submitted



that the appellants have no criminal antecedent.

The application for bail was opposed by learned Special P.P. for the State.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case including the fact of case and counter case between the parties and the alleged occurrence not taking place in public view, order dated 18.11.2019 passed in A.B.P. No.292 of 2019 (Complaint Case No. 367 of 2018) is set aside, let the appellants above named be enlarged on bail on furnishing individual bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, S.C/ST Act, Gaya in connection with Complaint Case No.367 of 2018 (District-Gaya).

The appeal stands allowed.

(Partha Sarthy, J)

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