

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.86 of 2020

Arising Out of PS. Case No.-232 Year-2019 Thana- MAKHDUMPUR District- Jehanabad

1. SANTOSH MISTRI @ CHHOTU MISTRI Son of Suresh Mistri Resident of Village - Gobardhan Bihga, P.S.- Makhdumpur, Distt - Jehanabad.
2. Laxminiya Devi Wife of Suresh Mistri Resident of Village - Gobardhan Bihga, P.S.- Makhdumpur, Distt - Jehanabad.
3. Sobha Devi Wife of Baiju Mistri Resident of Village - Gobardhan Bihga, P.S.- Makhdumpur, Distt - Jehanabad.
4. Chinki Devi Wife of Chhotu Mistri Resident of Village - Gobardhan Bihga, P.S.- Makhdumpur, Distt - Jehanabad.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Subhash Chandra Bose

For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 16-12-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For Orders” under the orders of Hon’ble the Chief Justice.

Heard the parties.

Ref: I.A. No. 01 of 2020

This interlocutory application has been filed for condonation of delay in filing the present Memo of appeal.

Considering the grounds taken in the application, the present interlocutory application is ***allowed***.



The delay in filing the present Memo of appeal is condoned.

The matter relates to grant of anticipatory bail to the appellants in connection with Makhdumpur P.S. Case No. 232 of 2019 registered for the offences under Sections 341, 342, 323, 325, 307, 337, 338/34 of the Indian Penal Code and Sections 3(1)(s)(w), 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

Allegedly, in the backdrop of petty feud, the accused persons brutally assaulted the informant's step son, grandson who sustained serious injuries. Accused persons climbed over the roof of the prosecution party and started throwing pebbles, stones etc. The informant's son was referred to Jehanabad on account of injury.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. There is case and counter case between the parties. Free fight is alleged to have taken place between the parties. General and omnibus allegation has been made against the appellants. No specific overt act is alleged against the



appellants. The injury on the side of the accused has not been explained by the prosecution. The prosecution has not come with clean hands. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellants are named in the Complaint Case/F.I.R.

In view of the aforesaid facts and circumstances, the order dated 02-08-2019 passed by learned Additional Sessions Judge-Ist, Jehanabad in Makhdumpur P.S. Case No. 232 of 2019 is set aside. The present Criminal Appeal is *allowed*.

Accordingly, let the appellants, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-Ist, Jehanabad in connection with Makhdumpur P.S. Case No. 232 of 2019.

(Sudhir Singh, J)

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