

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.431 of 2020**

Arising Out of PS. Case No.-235 Year-2019 Thana- BHARGAMA District- Araria

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1. KUNDAN KUMAR YADAV,
 2. Chandan Kumar @ Chandan Kumar Yadav,
both Sons of Kamo @ Kameshwar Yadav Resident of Village -
Raghunathpur East, P.S.- Bhargama, District – Araria.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Anupa Nand Jha
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL ORDER

3 16-12-2020 Heard learned counsel for the appellants and learned
Special P.P. for the State through virtual court proceedings.

Since the physical court proceeding is non-functional, due to present pandemic, COVID-19, the matter is listed with defects.

Learned counsel for the appellants undertakes to remove the defects as pointed out by the office within three weeks of normal functioning of the court, failing which the office is directed to place the matter before the Bench.

This is an appeal under Sections 14 (A) (2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities



Act, 1989 (hereinafter in short referred to as the 'S.C./S.T. Act'), against the refusal of prayer for bail vide order dated 03.12.2019 passed by the learned 1st Additional Sessions Judge Special Judge cum Special Judge (SC/ST) Act, Araria, in connection Bhargama P.S. Case No. 235/2019 registered under Sections 147/149/341/323/307/353/188/379/504 of the Indian Penal Code and Sections 3 (i)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Prosecution case in brief is that the informant who is the Home Guard constable gave a written application stating therein that on 04.10.2019 the motorcycle bearing Reg. No. BR-38A-8944 in patrolling checking found lack of relevant documents and accordingly, brought in Raghunathpur camp and he was on duty at the said camp for the safety of the vehicles, but at about 6.45 pm some persons came there and started creating hue and cry and tried to take away the vehicle and on objection raised by the informant they started abusing him with his caste name. The accused persons named in the FIR and other 15-10 unknown persons came at the house of the informant and started assaulting him by means of lathi due to which he received injury upon his head and the accused persons snatched away Rs. 4500/- his pocket.



Learned counsel for the appellants submits that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in this case due to village politics. The appellants are going from their vehicle in evening about 6.45 pm for bringing vegetable and in that very time the police are unnecessary disturbing them by stating show your paper and demanding illegal amount when their paper was up-to-date, thereafter, in the meantime, other travellers/public at large gathered and the appellants are trying to relive from there but the police concern forcefully disturbed them and thereafter, the case is presently instituted. It is further submitted that if the vehicle in question was illegally caught or seized then the seizure list must be prepared or any fine amount was be taken from the appellant but the police is just reversed the story of the present case for saving themselves. There is general and omnibus allegation against the appellants and there is no specific overt act against them.

Learned Special P.P. for the State opposes the prayer for bail.

In the facts and circumstances of the case, the above named appellants, in the event or their arrest or surrender before the learned court below within a period of six weeks



from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, Araria in connection with Bhargama P.S. Case No. 235/2019 arising out of Special SC/ST 218/2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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