

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.713 of 2020

Arising Out of PS. Case No.-90 Year-2019 Thana- HABIBPUR District- Bhagalpur

1. SAGAR MANDAL Son of Ganouri Mandal @ Ganesh Mandal Resident of Village - Bhairipur, P.S.- Habibpur, Dist.- Bhagalpur.
2. Shiv Mandal @ Shivraj Kumar Son of Gulab Mandal Resident of Village - Bhairipur, P.S.- Habibpur, Dist.- Bhagalpur.
3. Raju Mandal @ Raj Kumar Mandal Son of Dugan Mandal Resident of Village - Bhairipur, P.S.- Habibpur, Dist.- Bhagalpur.
4. Luhya Devi @ Archana Devi W/o Manikant Mandal @ Manukant Mandal Resident of Village - Bhairipur, P.S.- Habibpur, Dist.- Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sunil Kumar, Advocate.
For the Respondent/s : Mr.Usha Kumari 1, Spl. PP.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 26-08-2020 This matter has been taken up through Video Conferencing.

Heard learned counsel for the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for anticipatory bail vide order dated 23.01.2020 by the learned Addl. Sessions Judge-III cum Special Judge (SC/ST Act), Bhagalpur in Habibpur P.S. Case No. 90 of 2019 registered under Sections 147, 148, 323, 354B, 379, 504 and 506 of the



Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(ve) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

There is a case and counter case.

Learned counsel for the appellants submits that earlier case was filed by appellant no.4 Archana Devi. The case diary would reveal that witnesses have stated that since one Pappu Kumar, member of the prosecution party had consumed liquor and was creating nuisance that led to the occurrence of assault committed by both sides, the witnesses pacified the matter.

Considering the fact that the occurrence did not take place for the reason that the prosecution party were member of the scheduled caste or scheduled tribe rather for some different reason, prima facie offence under SC/ST Act is not attracted for the purpose of consideration of prayer for anticipatory bail, hence, let the appellants, above named, in the event of their arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on bail, on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with the aforesaid case, subject to the conditions as



laid down under Section 438 (2) of the Cr.P.C as well as following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.

(b) The appellants shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellants.

(c) The appellants shall not leave the country without permission of the trial Court.

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

(Birendra Kumar, J)

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