

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.809 of 2020

Arising Out of PS. Case No.-286 Year-2019 Thana- BARSOI District- Katihar

1. Md. Rajjak @ Md. Rajjak Ali @ Raja, Male, aged about 35 years, S/O Md. Ilayas, R/o Village - Najarabari, P.S. - Barsoi, District - Katihar.
2. Md. Kutubuddin @ Md. Kutub Alam, Male, aged about 40 years, S/O Late Usman, R/o Village - Najarabari, P.S. - Barsoi, District - Katihar.
3. Ashiya Khatoon, Female, aged about 35 years, W/O Md. Rajjak @ Md. Rajjak Ali @ Raja, R/o Village - Najarabari, P.S. - Barsoi, District - Katihar.
4. Md. Akbar, S/O Late Farid, Male, aged about 25 years, R/o Village - Najarabari, P.S. - Barsoi, District - Katihar.

... .. Appellants

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Appellants : Mr.Suresh Prasad Sah @ Baranwal, Advocate.
For the Opposite Party : Mr. Sadanand Paswan, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 25-06-2020 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.

Learned counsel for the appellants seeks permission to withdraw the anticipatory bail application with regard to the appellant no. 1, namely, Md. Rajjak @ Md. Rajjak Ali @ Raja in connection with Barsoi Kachna P.S. Case No. 286 of 2019, pending in the court of learned Ist Additional Sessions Judge-cum-Special Judge, Katihar, as he has already been taken into



judicial custody.

Permission is accorded.

Accordingly, the prayer for anticipatory bail on behalf of the appellant no. 1, namely, Md. Rajjak @ Md. Rajjak Ali @ Raja, is dismissed as withdrawn.

Heard learned counsel for the parties.

The matter relates to grant of anticipatory bail to the appellant nos. 2, 3 and 4 (except appellant no. 1) in connection with Barsoi Kachna P.S. Case No. 286 of 2019, registered for the offences under Sections 147, 148, 149, 341, 342, 323, 337, 353, 504, 506/34 of the IPC and 3(i)(r)(s), 3(2), (va) of SC/ST (Prevention of Atrocities) Act, 1989.

The prosecution case, in short, is that on 12.12.2019 on the direction of the higher officials, when the informant went to raid and arrest the accused persons in another case, co-accused Md. Rajjak @ Raja, his wife Ashiya Khatoon (appellant no. 3) insulted and abused with caste reference. They were creating hindrance by collecting villagers and tried to misguide the villagers. They also abused and assaulted with *Lathi-Danda* and torn the dress of the police. The police tried to pacify the situation but the co-accused Md. Manual, Md. Rajibul, Md. Akalu, Md. Kutubuddin (appellant no. 2), Md. Rafique, Md.



Akbar (appellant no. 4), Asraful and 50 unknown persons came with *Lathi-Danda* and obstructed the official work of the police and they abused the S.H.O. by caste reference, they assaulted the police personnel and damaged the police jeep.

It has been submitted on behalf of the appellant nos. 2 to 4 that the appellant nos. 2 and 3 have got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against them. General and omnibus allegation has been alleged against them. There is no specific overt act alleged against them.

On behalf of the State, it is submitted that the appellant nos. 2 to 4 are named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 20.01.2020 with regard to appellant nos. 2 to 4, passed by learned Ist Additional Sessions Judge-cum-Special Judge, Katihar, in connection with Barsoi Kachna P.S. Case No. 286 of 2019, is set aside. The criminal appeal is allowed.

Accordingly, the appellant nos. 2, 3 and 4 (except appellant no. 1 Md. Rajjak @ Md. Rajjak Ali @ Raja), above named, in the event of arrest or surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on their personal bond to the satisfaction of



learned Ist Additional Sessions Judge-cum-Special Judge, Katihar, in connection with Barsoi Kachna P.S. Case No. 286 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the appellant nos. 2, 3 and 4 (except appellant no. 1 Md. Rajjak @ Md. Rajjak Ali @ Raja) shall furnish bail bonds of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each within a period of seven weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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