

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.888 of 2020**

Arising Out of PS. Case No.-253 Year-2019 Thana- CHAUTHAM District- Khagaria

1. Dabal Chaudhary @ Sujit Chaudhary, aged about 50 years (Male), S/o Ram Narayan Chaudhary, R/o village- Gadhiya, P.S.- Chautham, District- Khagaria.
2. Mukul Chaudhary @ Amit Kumar, aged about 42 years (Male), S/o Late Sharv Narayan Chaudhary, R/o village- Gadhiya, P.S.- Chautham, District- Khagaria.
3. Binit Chaudhary, aged about 41 years (Male), S/o Late Sharv Narayan Chaudhary R/o village- Gadhiya, P.S.- Chautham, District- Khagaria.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants	:	Mr.Ranjeet Kumar Singh, Advocate.
For the Respondent	:	Mr. Choubey Jawahar, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

3 01-06-2020 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.

Heard learned counsels for the parties.

The matter relates to grant of bail to the appellants in connection with Chautham P.S. Case No. 253 of 2019, G.R. No. 3194 of 2019 registered for the offences under Sections 147, 148, 149, 447, 342, 323, 307, 354, 379, 448, 504 of the IPC and 3(i)(g)(s)(w)(1) 3(2) (va) of SC/ST Act.

The prosecution case, in short, is that accused persons



being members of unlawful assembly armed with deadly weapon made indiscriminate firing and surrounded the house of the informant on 06.05.2019 in the evening. Dabal Chaudhary @ Sujit Chaudhary assaulted by rifle butt having entered into the house of the informant and all accused directed her to vacate the house calling caste name as '*Haramjadi Dushadhin*'. In the meantime, Binit Kumar and Dabal Chaudhary @ Sujit Chaudhary caught her *Sari* and made her half naked and they told to commit rape against '*Haramjadi Dushadhin*' and misbehaved against her. On her cry, villagers came there and they remained silent due to indiscriminate firing. Dablu Kumar took away *Tin Box* containing Rs. 9,000/- and Mobile phone was taken away by accused Binit Chaudhary. Accused damaged the house of the informant. Thereafter, they fled away.

It has been submitted on behalf of the appellants that the appellants are in custody since 19.11.2019, 26.11.2019 and 27.11.2019 respectively. The appellants have falsely been implicated in the present case. Charge sheet has been submitted in this case. There is no allegation of tampering with the witnesses alleged against the appellants. The alleged occurrence is said to have taken place on 06.05.2019 as to when the case was instituted on 30.10.2019. No explanation of delay has been



given on the part of the prosecution. The appellant no. 1 is said to have assaulted with rifle butt on the back of the informant. Similar allegation has been made against appellant no. 2 and as far as appellant no. 3 is concerned, it is alleged that he had taken Mobile of the informant. The injury report does not support the allegation made in the F.I.R. Hence, no offence under Section 307 of the I.P.C. is made out in the present case. It is further contended that no occurrence is alleged to have taken place at a public place.

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

In view of the aforesaid facts and circumstances, the order dated 01.02.2020, passed by learned Additional Sessions Judge, Ist-cum-Special Judge, SC/ST Act, Khagaria, in connection with Chautham P.S. Case No. 253 of 2019, G.R. No. 3194 of 2019, is set aside. The criminal appeal is allowed.

Further, the appellants, above named, are directed to be released on bail on their personal bond to the satisfaction learned Additional Sessions Judge, Ist-cum-Special Judge, SC/ST Act, Khagaria in connection with Chautham P.S. Case No. 253 of 2019, G.R. No. 3194 of 2019.

Once the normalcy is restored, the appellants shall



furnish bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each within a period of four weeks to the satisfaction of the court concerned in connection with the aforesaid case.

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(Sudhir Singh, J)

