

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1426 of 2020**

Arising Out of PS. Case No.-105 Year-2012 Thana- SC/ST District- Vaishali

1. Rahamtullah Khan, aged about 48 years (M) Son of Late Baslain Khan
2. Soni Khan @ Nemtullah Khan, aged about 25 years (M), Son of Rahamtullah Khan
Both Resident of Village - Pandari, P.S.- Dhaka, District - East Champaran

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhishek Kumar, Advocate
For the Respondent/s : Mrs. Usha Kumari No. 1, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

2 25-09-2020 Heard Mr. Abhishek Kumar , learned counsel for the appellants and Mrs. Usha Kumari No.1, learned Spl. Public Prosecutor appearing for the State through video conferencing.

The present appeal is directed against the order dated 28.01.2020 passed by learned 1st Additional Sessions Judge cum Special Judge, Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, East Champaran at Motihari in Anticipatory Bail Petition No. 171 of 2020 arising out of SC/ST Hajipur P.S. Case No. 105 of 2012 registered under Section 341 / 323/ 504 / 34 of the I.P.C. and Section 3 (i) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 , whereby the prayer for anticipatory



bail of the appellants has been rejected.

The allegation against the appellants as per the First Information Report lodged by the informant- Nagendra Ram stating therein that the informant was a PACS Member of Pandari Panchayat and on 09.03.2012 he was going to the house of Md. Azim Khan Pandari. In the meantime, the appellants called him and Soni Khan caught the collar of the informant and called him by caste name and also abused and assaulted the informant.

Learned counsel for the appellants submits that appellants have not committed any offence in the manner alleged and Police after investigation submitted final form, not sending the appellants for trial. The copy of the final form has been annexed as Annexure – 2 to this memo of appeal. Learned counsel further submits that the Police prima facie did not find the allegation against the appellants true, however the learned court below differing with the final form, took cognizance against the appellants and issued summons and warrant. Learned counsel referring to paragraph no. 11 of this appeal submits that copy of summon and warrant were not served upon the appellants and the moment the appellants came to know about the same, they filed an application for anticipatory bail



before the court below, which has been rejected without taking into consideration the materials on record.

Having regard to the submissions made by the parties and taking into consideration the fact that Police prima facie did not find the allegation against the appellants as true and submitted final form, this appeal is allowed and the impugned order dated 28.01.2020 passed by learned 1st Additional Sessions Judge cum Special Judge, Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, East Champaran, Motihari in Anticipatory Bail Petition No. 171 of 2020 arising out of SC/ST Hajipur P.S. Case No. 105 of 2012 is set aside.

Accordingly, in the event of arrest or surrender by the appellants, above named, before the court below within six weeks from today, they shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge cum Special Judge, SC / ST (POA) Act, East Champaran, Motihari / court concerned in connection with SC / ST Hajipur P.S. Case No. 105 of 2012 , subject to the condition as laid down under Section 438 (2) of the Code Of Criminal Procedure.



It is made clear that at the time of furnishing bail bond
all the parties shall follow the guidelines regarding lockdown
and social distancing.

(Anil Kumar Sinha, J)

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