

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1393 of 2020**

Arising Out of PS. Case No.-10 Year-2020 Thana- SC/ST District- Bhojpur

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1. Sunil Yadav , aged about 36 years, Male, Son of Jagnarayan Yadav
 2. Munna Yadav, aged about 32 years, Male, Son of Jagnarayan Yadav
 3. Vishwakarma Yadav, aged about 35 years, Male, Son of Batar Yadav
 4. Kamlesh Yadav, aged about 34 years, Male, Son of Shyam Yadav @ Dubai Yadav
- All are Resident of Village- Sikuria Tola, Udwant Nagar, P.S.- Udwant Nagar, Distt- Bhojpur.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Madanjeet Kumar
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

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

2 24-09-2020 Heard Mr. Madanjeet Kumar , learned counsel for the appellants and Mr. Sadanand Paswan, learned Spl. Public Prosecutor appearing for the State through video conferencing.

The present appeal is directed against the order dated 16-03-2020 passed by learned Additional Sessions Judge – I, Bhojpur at Ara in A.B.P. No. 446 of 2020 in connection with Bhojpur (SC/ ST) P.S. Case No. 10 of 2020 registered for the offence under Section 341, 323, 504, 506 / 34 of the I.P.C. and Section 3 (i) (r) (s) / 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [hereinafter referred to as ‘the Act’] whereby the prayer for



anticipatory bail of the appellants has been rejected.

The allegation against the appellants as per the First Information Report is that on 30.01.2020 while the programme of Saraswati Puja was going on, appellants along with other accused persons assaulted the informant and called the informant by his caste name.

Learned counsel for the appellants submits that the appellants have falsely been implicated in this case due to the dispute arising out of running of generator by the informant hired for the purpose of programme. Learned counsel further submits that from perusal of the F.I.R. it is not evident that the alleged scuffle between the parties had taken place in full public view. Learned counsel referring to Annexure -2 to the petition submits that injuries caused to the informant was found to be simple in nature and the appellants had no knowledge about the caste of the informant.

Learned counsel for the state on the other hand vehemently opposes the prayer for bail and submits that there is a presumption under Section 8 (c) of the Act that the accused persons are having knowledge of the caste of the informant, however, the same presumption is rebuttable.

Having regard to the submissions made by the parties



and taking into consideration the materials available on record, this appeal is **allowed** and the impugned order dated 16-03-2020 passed by learned Additional Sessions Judge – Ist, Bhojpur at Ara in A.B.P. No. 446 of 2020 in connection with Bhojpur (SC/ ST) P.S. Case No. 10 of 2020 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 Additional District and Sessions Judge - I, Bhojpur at Ara /court concerned in connection with Bhojpur (SC/ ST) P.S. Case No. 10 of 2020 , 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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