

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1459 of 2020

Arising Out of PS. Case No.-375 Year-2019 Thana- ROSERA District- Samastipur

1. RAJENDRA MUKHIYA S/o Tulsi Mukhiya Village- Bhirha, P.S.- Rosera, Distt- Samastipur.
2. Sanjay Mukhiya S/o Rajendra Mukhiya Village- Bhirha, P.S.- Rosera, Distt- Samastipur.
3. Chunchun Devi W/o Raj Kumar Mukhiya Village- Bhirha, P.S.- Rosera, Distt- Samastipur.
4. Kamini Devi W/o Sanjeet Mukhiya Village- Bhirha, P.S.- Rosera, Distt- Samastipur.
5. Kaviya Devi W/o Rajendra Mukhiya Village- Bhirha, P.S.- Rosera, Distt- Samastipur.
6. Usha Devi W/o- Sanjay Mukhiya Village- Bhirha, P.S.- Rosera, Distt- Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar No1, Advocate
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. Mukesh Kumar No.1, learned counsel for the appellants and Mr. Sadanand Paswan, learned Special Public Prosecutor appearing for the State through video conferencing.

This appeal has been preferred on behalf of the appellants for setting aside the order dated 20.02.2020 passed by the learned Additional Sessions Judge-1st, Samastipur, whereby the prayer for anticipatory bail of the appellants in connection with Rosera P.S. Case No. 375 of 2019 registered for the



offences punishable under Sections 3(1) (r) (s) 3 (2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, has been rejected.

The allegation against the appellants as per the First Information Report is that on 8.11.2019 the appellants who are the next door neighbours of the informant, abused him by calling his caste name and also threatened him of dire consequences. It has further been alleged that appellant No. 1 assaulted the informant by means of iron rod, on account of which, he sustained injury on his head.

Learned counsel for the appellants submits that both the parties are co-villagers and next door neighbours. The dispute arose between them with regard to a passage. Learned counsel further submits that the First Information Report was lodged after considerable delay inasmuch as occurrence had allegedly taken place on 7.10.2019 but First Information Report has been registered on 8.11.2019. Learned counsel also submits that the allegation against the appellants are general and omnibus and from perusal of the First Information Report it would be evident that the occurrence has not taken place in a full public view but in a garden i.e. *Bari*.

Having regard to the submissions made by the parties



and taking into consideration the materials on record and also the fact that both the parties are next door neighbours, this appeal is allowed and the impugned order dated 20.02.2020 passed by the learned Additional Sessions Judge-1st, Samastipur, in connection with Rosera P.S. Case No. 375 of 2019, is hereby set aside.

Accordingly, in the event of arrest or surrender before the court below within six weeks from today by the appellants, above named, they shall be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1st, Samastipur, in connection with Rosera P.S. Case No. 375 of 2019, 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 bails bonds all the parties shall follow the guidelines regarding lockdown and social distancing.

(Anil Kumar Sinha, J)

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