

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1550 of 2020

Arising Out of PS. Case No.-399 Year-2019 Thana- BAIRIYA District- West Champaran

1. MADAN SAH S/o Bhawar Sah
2. Kanhaiya Sah S/o Hira Sah
3. Hira Sah S/o Bhawar Sah
4. Lagan Sah S/o Madan Sah
5. Munna Sah S/o Madan Sah
6. Sahoo Sah S/o Shiv Ratan Sah
7. Awadhesh Yadav S/o Alha Yadav all Resident of Village-Motipur (Bada), Ward no.15, P.S-Bairiya, District-West Champaran.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Aditya Nath Jha, Adv.
For the Respondent/s : Mr. Binay Krishna, SPP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 29-09-2020 Learned counsel for the appellants submits that appellant no. 1 has been arrested, therefore, this appeal has become infructuous as against appellant no. 1.

Accordingly, this appeal as against appellant no. 1 is dismissed as infructuous.

Heard learned counsel for the appellants and learned Special Public Prosecutor for the State through virtual court proceedings.

Since the physical court proceeding is non-functional, due to present pandemic COVID-19, the matter is listed with



defects.

Learned counsel for the appellants undertakes to remove the defects within three weeks of resumption of physical court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 15.02.2020 passed by learned 1st Additional District and Sessions Judge cum Special Judge, (SC/ST/POSCO) Bettiah, West Champaran in connection with Bairiya P.S. Case No. 399 of 2019 registered under Sections 341, 323, 354, 379, 504/34 of the Indian Penal Code and Sections 3(X) (XI) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution case as lodged by the informant is that on 16.11.2019 all accused persons had come at her house and started abusing her and entered into her house. It is alleged that accused persons assaulted the informant. Lagan Sah and Munna Sah caught hold and accused Sahoo Sah torn her cloth. It



is also alleged that when Vijay Paswan had come to save accused Awadesh Yadav took Rs. 10,000/- from his pocket and ear ring of informant.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence and they have been falsely implicated in the case due to dirty village politics. He submits that appellants along with others who were 10 in number had entered in her house and abused and assaulted her but it is surprising enough that informant has not sustained any injury. He submits that allegation about torn of cloth and theft is nothing but supper addition and as such it can be said the present FIR is based on concerted story. He further submits that appellants bear no criminal history.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the above named appellants in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the



learned 1st Additional District and Sessions Judge cum Special Judge, (SC/ST/POSCO) Bettiah, West Champaran in connection with Bairiya P.S. Case No. 399 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed only in respect of appellant nos. 2, 3, 4, 5, 6 and 7.

(Anjani Kumar Sharan, J)

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