

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1708 of 2020

Arising Out of PS. Case No.-44 Year-2017 Thana- SC/ST District- Sitamarhi

1. SAKIL ANSARI Son of Shahid Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
2. Nasim Ansari Son of Karim Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
3. Moyeen Ansari Son of Abdul Karim Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
4. Mansoor Ansari Son of Janif Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
5. Khalid Ansari Son of Israil Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
6. Anwarul Ansari Son of Lal Mohammad Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
7. Pappu Ansari Son of Anwarul Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
8. Motiful Khatoon Wife of Idris Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
9. Lajifa Khatoon @ Lajina Khatoon Wife of Naushad Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
10. Sairul Khatoon Wife of Islam Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
11. Johara Khatoon Wife of Rasid Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
12. Maimun Khatoon Wife of Mansoori Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
13. Mazhar Khatoon @ Mazram Khatoon Wife of Farmud Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
14. Amina Khatoon Wife of Abbas Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
15. Nurul Ansari Son of Suleman Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
16. Ajij Ansari @ Abdul Ajij Ansari Son of Jalil Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.
17. Sabina Khatoon Wife of Md. Anwar Ansari Resident of Village- Barbas, P.S.- Dumra, District- Sitamarhi.

... .. Appellants.

Versus

The State of Bihar.

... .. Respondentt.



Appearance :

For the Appellant/s : Mr. Pushpendra Kumar Singh, Advocate.
For the Respondent/s : Mr. Sadanand Pawan, Special P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 08-12-2020 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 29.02.2020 passed by learned 1st Additional Sessions Judge cum Special Judge (SC/ST Act), Sitamarhi in connection with Sitamarhi SC/ST P.S. Case No. 44 of 2017 registered under Sections 147, 148, 149, 341, 323, 379, 354, 354



(KH), 504, 394, 295, 295 (K) and 506 of the Indian Penal Code and Section 3(1) (r) (s) (w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution case, in brief, as alleged in the first information report is that on the eve of marriage of son of the informant while the bridegroom and ladies had gone to Brahm Asthan and Mai Asthan for worship and when they reached at the road near Muslim Mohalla then accused nos.31 to 38 surrounded them and asked that they did not permit the Hindus to cross this road by singing and drumming. When the protest was made, the female accused persons became angry by taking caste name as Dhobin and also asked to assault them. The accused persons also tore the sarees, blous, samij, salwar of ladies and girls. They also snatched Dupatta of girls. Co-accused Ansari, Nasim Ansari, Moin Ansari and Pappu Ansari looted the ornaments from the persons of the ladies and any how the informant and others saved their life. The accused persons tried to enter in the Dhobi Mohalla but on the arrival of the villagers as well as on giving information of arrival of the police vehicle, the accused returned.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid



occurrence. They have been falsely implicated in the case due to political rivalry. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. Slating the informant in the name of caste is said to have been made at the house of the appellant and not in public view, hence no offence under SC/ST Act is made out against the appellants. There is inordinate delay of four days in lodging the case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. As a matter of fact, to save their skin from the offence committed by the informant and his other associates on the alleged date of occurrence on 04.05.2017 for which Sitamarhi P.S. Case No.320 of 2017 dated 05.05.2017 was instituted against the informant and others, this false and frivolous case has been lodged against the appellants and others on concocted allegations. It is further stated that the Police has submitted charge-sheet against only five accused persons (not against the appellants) vide Charge sheet No.75 of 2018 dated 31.08.2018 and the appellants were not sent up for trial. Appellants have no criminal antecedent.

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 Addl. Sessions Judge cum Special Judge (SC/ST Act), Sitamarhi in connection with Sitamarhi SC/ST P.S. Case No.44 of 2017, 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.

(Anjani Kumar Sharan, J)

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