

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.1588 of 2020**

Arising Out of PS. Case No.-43 Year-2020 Thana- SURYAGARHA District- Lakhisarai

1. MD. MURTAZA KHA @ MURTAZA KHAN Son of Hakim Khan Resident of Village- Alinagar, P.S. and Dist- Lakhisarai.
2. Md. Sonu Khan Son of Md. Murtaza Kha @ Murtaza Khan Resident of Village- Alinagar, P.S. and Dist- Lakhisarai.
3. Md. Rustam Kha @ Md. Rustam Khan Son of Late Muso Kha Resident of Village- Alinagar, P.S. and Dist- Lakhisarai.
4. Md. Lallu Khan @ Lallu Kha Son of Late Muso Kha Resident of Village- Alinagar, P.S. and Dist- Lakhisarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

|                     |   |                             |
|---------------------|---|-----------------------------|
| For the Appellant/s | : | Mr.Rajnish Chandra          |
| For the State       | : | Mrs. Usha Kumari, No. 1 APP |

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**ORAL ORDER**

2      15-10-2020                      Due to COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For Orders” under the orders of Hon’ble the Chief Justice.

Learned counsel for the appellants is directed to remove the defect(s), as pointed out by the office, within a period of four weeks after restoration of normalcy.

Heard the parties.

It has been submitted on behalf of the appellants that the present appeal is barred by limitation. It has further been



submitted that due to Covid-19 lockdown, the present appeal could not be filed within time. He has further relied upon an order of the Hon'ble Supreme Court passed in ***SUO MOTU WRIT PETITION (CIVIL) No(s). 3 of 2020 under order dated 23-03-2020.***

In the light of the order of the Hon'ble Supreme Court as referred above, the delay in filing the appeal is condoned.

At the outset, counsel for the appellants seeks permission to withdraw the present appeal in respect of appellant Nos. 3 & 4 as during pendency of this appeal, the appellant Nos. 3 & 4 have been taken into judicial custody.

Permission is granted.

Accordingly, this appeal in respect of appellant Nos. 3 & 4 is dismissed as withdrawn.

Now, the present appeal is preferred for the appellant Nos. 1 & 2 only.

The matter relates to grant of anticipatory bail to the appellant Nos. 1 & 2 only in connection with Suryagarha P.S. Case No. 43 of 2020 (SC/ST Case No. 25 of 2020) registered for the offences under Sections 147, 341, 323, 379, 354, 504, 506 of the Indian Penal Code and Sections 3(i)(r), 3(i)(s) of the SC/ST Act.



Allegedly, the accused persons after breaking open the door, entered the house of the informant and started to scold him by his caste name. It is also alleged that Md. Sonu and Md. Lallu assaulted the informant by means of rod. While hearing the sound of cry, his wife came to rescue him, she was also assaulted.

It has been submitted on behalf of the appellant Nos. 1 & 2 that the appellant Nos. 1 & 2 have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellant Nos. 1 & 2. General and omnibus allegation has been made against the appellant Nos. 1 & 2. No specific overt act is alleged against the appellant Nos. 1 & 2. There is admitted land dispute between the parties. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant Nos. 1 & 2 are named in the Complaint Case/F.I.R.

In view of the aforesaid facts and circumstances, with regard to appellant Nos. 1 & 2 only, the order dated 19-03-2020 passed by learned Additional District & Sessions Judge-Ist-cum-Special Judge, Lakhisarai in Suryagarha P.S. Case No. 43 of 2020 (SC/ST Case No. 25 of 2020) is set aside. The



present Criminal Appeal is *allowed*.

Accordingly, let the appellant Nos. 1 & 2, above named, in the event of arrest or surrender before the learned court below within a period of eight weeks from today, 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 District & Sessions Judge-Ist-cum-Special Judge, Lakhisarai in connection with Suryagarha P.S. Case No. 43 of 2020 (SC/ST Case No. 25 of 2020).

**(Sudhir Singh, J)**

A.K.V.//-

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