

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1820 of 2020

Arising Out of PS. Case No.-104 Year-2020 Thana- MOUZAHDIPUR District- Bhagalpur

1. DUKHAN SHARMA Son of Laxman Sharma Resident of Muhalla- Warshaliganj Mahmdabad, P.S.- Babarganj (Mojahidpur), District- Bhagalpur.
2. Raj Kumar Sharma Son of Laxman Sharma Resident of Muhalla- Warshaliganj Mahmdabad, P.S.- Babarganj (Mojahidpur), District- Bhagalpur.
3. Lalan Sharma Son of Suresh Sharma Resident of Muhalla- Warshaliganj Mahmdabad, P.S.- Babarganj (Mojahidpur), District- Bhagalpur.
4. Sadanand Sharma Son of Suresh Sharma Resident of Muhalla- Warshaliganj Mahmdabad, P.S.- Babarganj (Mojahidpur), District- Bhagalpur.
5. Uttam Sharma @ Uttam Kumar Sharma Son of Raj Kumar Sharma Resident of Muhalla- Warshaliganj Mahmdabad, P.S.- Babarganj (Mojahidpur), District- Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Diwakar Upadhyaya, Advocate
For the Respondent/s : Mr. Vinay Krishna, A.P.P.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 04-12-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel appearing for the appellants and Shri Vinay Krishna, learned Special P.P. for the State.

This is an appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989



against the order dated 08.07.2020 passed by the 3rd Additional District & Sessions Judge-cum-Special Judge (SC/ST Act), Bhagalpur in Anticipatory Bail Petition No. 955 of 2020 arising out of Mojahidpur (Babarganj) P.S. Case No. 104 of 2020 registered under Sections 341, 323, 504, 506 and 34 of the Indian Penal Code and Sections 3(1)(r)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, whereby and whereunder the prayer of the appellants for grant of anticipatory bail has been refused.

The allegation is regarding the brother of the informant having gone to deliver milk on 16.05.2020 at about 7:00 P.M. and when he had reached near Panchmukhi Hanuman Mandir, he saw that two persons were quarreling with each other, whereupon he started watching them by standing there. It is alleged that thereafter, the appellants herein had abused the brother of the informant and had driven him away from there whereupon the brother of the informant had informed the informant about the occurrence on phone and then the informant had also arrived there whereafter, all the accused persons including the appellants herein had assaulted them. However, the people of the locality had rescued them and pacified the matter in between them. It is further alleged that on 17.05.2020



the informant and his brother were going to buy vegetables at about 8:00 A.M. and when they had reached near Panchmukhi Hanuman Mandir, the accused persons including the appellants herein had caught them and assaulted them.

The learned counsel for the appellants has submitted that the appellants are innocent, have been falsely implicated in the present case and are having a clean antecedent. The learned counsel for the appellants has further submitted that the present case arises out of case and counter case and in fact there is no allegation of the appellants herein having abused the informant or his brother by taking their caste name. It is also submitted that a general and omnibus allegation has been levelled against the appellants herein.

Per contra, the learned Special P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions and taking into account the fact that a general and omnibus allegation has been levelled against the appellants herein and moreover there is no allegation of the appellants herein having abused the informant and his brother by taking their caste name, this Court finds that prima facie no case is made out as alleged, hence I deem it fit and proper to



direct for release of the appellants on anticipatory bail.

Accordingly, the appellants, above named, are directed to 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 3rd Additional District & Session Judge-cum-Special Judge (SC/ST Act), Bhagalpur in connection with Mojahidpur (Babarganj) P.S. Case No. 104 of 2020, subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

Consequently the impugned order dated 08.07.2020 passed by the 3rd Additional District & Sessions Judge-cum-Special Judge (SC/ST Act), Bhagalpur in Anticipatory Bail Petition No. 955 of 2020 arising out of Mojahidpur (Babarganj) P.S. Case No. 104 of 2020 is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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