

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1401 of 2021

Arising Out of PS. Case No.-99 Year-2020 Thana- HATHAURI District- Samastipur

1. BRAJESH KUMAR CHOUDHARY SON OF RAMPRIT CHOUDHARY Resident of Village - Rahiyar, P.s.- Hathauri (Shivajinagar O.P.), Samastipur.
2. PARBHAKAR KUMAR CHOUDHARY @ PRABHAKAR CHOUDHARY SON OF ANKIT NAHI Resident of Village - Pokhram , P.s.- Biraul, Distt.- Darbhanga.
3. BHUSHAN KUMAR CHOUDHARY @ BHUSHAN CHOUDHARY SON OF JAYSHANKAR CHOUDHARY Resident of Village - Rahiyar, P.s.- Hathauri (Shivajinagar O.P.), Samastipur.
4. RAM KRISHNA CHOUDHARY SON OF RAMCHARITRA CHOUDHARY Resident of Village - Rahiyar, P.s.- Hathauri (Shivajinagar O.P.), Samastipur.
5. PURUSHOTTAM KUMAR CHOUDHARY @ PURUSHOTTAM CHOUDHARY SON OF UMESH CHOUDHARY Resident of Village - Rahiyar, P.s.- Hathauri (Shivajinagar O.P.), Samastipur.
6. SHAMBHU KUMAR CHOUDHARY @ SHAMBHU CHOUDHARY SON OF RAMPRIT CHOUDHARY Resident of Village - Rahiyar, P.s.- Hathauri (Shivajinagar O.P.), Samastipur.
7. NAVEEN KUMAR CHOUDHARY @ NAVIN RAMNARAYN CHOUDHARY Resident of Village - Rahiyar, P.s.- Hathauri (Shivajinagar O.P.), Samastipur.
8. NITISH KUMAR CHOUDHARY @ NITISH CHOUDHARY SON OF ASHOK CHOUDHARY Resident of Village - Rahiyar, P.s.- Hathauri (Shivajinagar O.P.), Samastipur.
9. AMIT KUMAR CHOUDHARY @ AMIT CHOUDHARY SON OF ARUN CHOUDHARY Resident of Village - Rahiyar, P.s.- Hathauri (Shivajinagar O.P.), Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vaishnavi Singh
For the Respondent/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 27-05-2021 Heard learned counsel for the appellants and the State
through virtual mode.



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.

The matter relates to grant of anticipatory bail to the appellants in connection with Hathauri (Shivajinagar O.P.) P.S. Case No. 99 of 2020 registered for the offences under Sections 147, 149, 323, 341, 504, 506 of the Indian Penal Code and Sections 3(1)(r) (s)3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

Allegedly, the accused abused the informant calling his caste name and on protest, they assaulted the informant.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. General and omnibus allegation has been made against the appellants. No specific overt act is alleged against the appellants. A title suit is pending between the parties. The present case has been instituted after two days of the occurrence. The delay in instituting the FIR has not been explained by the prosecution. The prosecution has not come with clean hands. 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 appellants are named in the Complaint Case/F.I.R.

In view of the aforesaid facts and circumstances, the order dated 17-12-2020 passed by learned Additional District & Sessions Judge-Ist-cum-Special Judge, SC/ST Act, Samastipur in Hathauri P.S. Case No. 99 of 2020 is set aside. The present Criminal Appeal is allowed.

Considering the aforesaid facts and circumstances of the case and also the lockdown, let the appellants, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bond to the satisfaction of learned Additional District & Sessions Judge-Ist-cum-Special Judge, SC/ST Act, Samastipur in connection with Hathauri P.S. Case No. 99 of 2020.

Once the normalcy is restored, the appellants shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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