

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1016 of 2021

Arising Out of PS. Case No.-36 Year-2020 Thana- SAKATPUR District- Darbhanga

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1. Shamim Ansari, Male, Aged about 42 years, Son of Eshak Ansari
 2. Md. Zubair Ansari, Male, Aged about 31 years, Son of Jamil Ansari
 3. Abdulla @ Gulam Mohammad Abdulla, Male, Aged about 20 years, Son of Lal Mohamad Ansari
- All Serial No. 1 to 3 are resident of Village -Kathara, P.S. - Sakatpur, District - Darbhanga.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Durga Nand Jha, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 16-07-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the appellants on 12.07.2021, which was allowed.

3. Heard Mr. Durga Nand Jha, learned counsel for the appellants and Mr. Sadanand Paswan, learned Special Public Prosecutor (hereinafter referred to as the ‘Spl. PP’) for the State.

4. The present appeal is directed against the order dated 16.10.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge (POA Act), Darbhanga in ABP No. 1186 of 2020 by which the prayer for anticipatory bail of the appellants has been rejected.



5. The appellants apprehend arrest in connection with Sakatpur PS Case No. 36 of 2020 dated 11.06.2020, instituted under Sections 147/148/341/323/379/307/354(B)/504/506 of the Indian Penal Code and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'SC/ST Act').

6. The allegation against the appellants, who are among 23 named accused is of assault and specifically against co-accused Mustafa Ansari, who is said to have assaulted the informant with *lathi* on the head due to which she sustained injuries and thereafter against the other accused, including the appellants, it is general and omnibus of assault by *lathi*, *danda* fists and slaps.

7. Learned counsel for the appellants submitted that as per the allegation itself the she-buffalo of the informant is said to have entered into the agricultural field of co-accused Etwari Ansari, who initially abused the informant and objected and thereafter co-accused Mustafa Ansari is said to have assaulted by *lathi* on the head of the informant. Thus, it was submitted that no allegation is made out under the SC/ST Act as it was the agricultural field and not an open public place and there is no allegation that any other person was there. Moreover, on merits, it was submitted that all persons have been made accused for a petty incident with *mala fide* intention only to exert pressure on



them so that the informant is not asked to compensate for the damage caused to the agricultural field of the accused due to her she-buffalo entering into the field of co-accused Etwari Ansari. Learned counsel submitted that the appellants have no other criminal antecedent and similarly situated co-accused Sadrul Ansari, Jannat Ansari, Niyaz Ansari and Manzer Ansari have been granted bail by the co-ordinate bench by order dated 27.11.2020 in Criminal Appeal (SJ) No. 1798 of 2020 as they had been arrested within a few days of the incident.

8. Learned Spl. PP submitted that as per the FIR, they were also part of the mob. However, it was not controverted that the injury on the informant is specifically attributed to co-accused Mustafa Ansari.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the appellants be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Darbhanga in Sakatpur PS Case No. 36 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the appellants, (ii) that the



appellants and the bailors shall execute bond and give undertaking with regard to good behaviour of the appellants, and (iii) that the appellants shall cooperate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation shall lead to cancellation of their bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the appellants, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellants.

11. Accordingly, the appeal stands allowed. The order dated 16.10.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge (POA Act), Darbhanga in ABP No. 1186 of 2020 is set aside.

(Ahsanuddin Amanullah, J)

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