

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1027 of 2021

Arising Out of PS. Case No.-88 Year-2017 Thana- GOH District- Aurangabad

1. DHIRAJ SHARMA @DHIRAJ KUMAR Son of Umesh Sharma Resident of Village - Mundwa, P.S.- Goh, Dist.- Aurangabad. (Bihar)
2. Niraj Kumar Son of Kunwar Sharma Resident of Village - Mundwa, P.S.- Goh, Dist.- Aurangabad. (Bihar)
3. Narendra Kumar @ Narendra Sharma @ Nagendra Sharma Son of Late Ram Lakhan Sharma Resident of Village - Mundwa, P.S.- Goh, Dist.- Aurangabad. (Bihar)
4. Pankaj Sharma Son of Kanchan Dev Sharma Resident of Village - Mundwa, P.S.- Goh, Dist.- Aurangabad. (Bihar)
5. Mukul Sharma Son of Shyamanand Sharma Resident of Village - Mundwa, P.S.- Goh, Dist.- Aurangabad. (Bihar)
6. Shyamakant Sharma @ Shyamakanti Sharma Son of Radheram Sharma Resident of Village - Mundwa, P.S.- Goh, Dist.- Aurangabad. (Bihar)

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms.Leelawati Kumari
For the Respondent/s	:	Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

2 01-11-2021 Heard learned counsel for the appellants.

Learned counsel for the appellants is directed to remove all the defects pointed out by the Stamp Reporter within one month.

This appeal has been preferred on behalf of the appellant under Section 14A (2) of the SC & ST (Prevention of Atrocities) Act for setting aside the order dated 13.10.2020,



passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST), Aurangabad, in connection with Goh P.S.Case No. 88 of 2017, registered for the offences punishable under Sections 341, 323, 504, 354 and 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2)(va) of SC and ST (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

As per the allegation, the accused persons humiliated and assaulted the members of the informant party as they were members of the scheduled caste.

Learned counsel for the appellants has submitted that co-accused persons Naryan Sharma, Rakesh Sharma and Pintu Sharma have been granted anticipatory bail by a coordinate Bench of this Court in Cr. Appeal (SJ) No. 1139 of 2021, vide order dated 11.08.2021. From perusal of the said order, it transpires that the coordinate Bench, after considering the counter case being Goh P.S.Case No. 89 of 2020, found that this case has been filed in retaliation of that case.

This Court does not find any reason as to why the same benefit should not be extended to the present appellants. As there is already counter case and the present case has been filed in retaliation of that case, it cannot be said that the reason



behind the occurrence was malicious feeling of caste.

Considering the above-mentioned facts and circumstances, the appeal is allowed and the impugned order dated 13.10.2020, passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST), Aurangabad is set aside.

Accordingly, in the event of arrest or surrender within four weeks from today, the appellants, above-named shall 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 1st Additional District and Sessions-cum-Special Judge (SC/ST), Aurangabad in connection with Goh P.S.Case No.88 of 2017.

Office shall ensure that all defects are removed by the appellant within the stipulated time provided in para 2 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey , J)

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