

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1166 of 2021

Arising Out of PS. Case No.-158 Year-2020 Thana- DHANAHA District- West Champaran

1. JOKHU CHAUHAN, S/o Dalsingar Chauhan Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
2. Subash Chauhan S/o Rajendra Chauhan Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
3. Nagu Chauhan S/o Ramayan Chauhan Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
4. Sunil Yadav S/o Bhola Yadav Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
5. Kedar Chauhan S/o Bauk Chauhan Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
6. Sanjay Yadav @ Sanjay Kumar Yadav S/o Ramayan Yadav Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
7. Rajdeo Chauhan S/o Balkhila Chauhan Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
8. Rambali Chauhan S/o Shankar Chauhan Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
9. Ramayan Chauhan S/o Balkhila Chauhan Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
10. Arjun Chauhan S/o Dalsingar Chauhan Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.
11. Mohan Chauhan S/o Dalsingar Chauhan Resident of Village- Barwa, Sahaj Tola, P.S.- Dhanha, District- West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjeev Kumar
For the Respondent/s : Mr. SPP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 12-08-2021 Heard Mr. Sanjeev Kumar, learned Advocate for

the appellants and Mr. Binay Krishna, learned Special

Public Prosecutor for the State.



The appellants have challenged the order dated 26.11.2020, passed by the learned 1st Additional District and Sessions Judge cum Special Judge (SC / ST), Bettiah, West Champaran, in A.B.P. No. 1904 of 2020, arising out of Dhanha P. S. Case No. 158 of 2020, whereby the prayer made on behalf of the appellants for grant of anticipatory bail for the offences punishable under Sections 341, 323, 307, 504, 353 and 34 of the Indian Penal Code and Section 3 (i) (r) (s) (w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

One Binod Kushwaha, an accused of a murder case was reportedly locked inside a local school by the villagers. The police party arrived to save aforesaid Binod Kushwaha and take him into police custody. This was being protested by the villagers because the villagers were not happy with the manner in which the investigation in that case was being conducted by the local police. Precisely for this reason, the villagers



wanted to hand over Binod Kushwaha to only a senior police officer. This was for the fear of the local police that they might allow him to escape again.

It is in this context that there was a protest by the local villagers in which some of the police personnel were injured. One of them is said to have been abused by taking his caste name.

Though some of the persons have undoubtedly been injured in the occurrence, but the injuries do not appear to be life threatening.

So far as the appellants are concerned, no specific accusation of assault has been levelled against them and they appear to have been identified by the local *Chaukidar*.

The learned counsel for the appellants has further submitted that when the anticipatory bail of the appellants was being pursued before the court below, despite the Court asking for case-diary on several occasions, it was not produced by the local police. This



fact has been brought to the notice of this Court only to demonstrate that the local police is absolutely hostile to the persons of the village in which the occurrence is said to have taken place.

It has thus been argued that some of the offences under the Indian Penal Code may have been made out against the accused persons but the accusation under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has only been invoked for the purposes of preventing the appellants from taking advantage of the beneficent provision of the Code of Criminal Procedure.

Regard being had to the afore-stated, the order dated 26.11.2020, passed by the learned 1st Additional District and Sessions Judge cum Special Judge (SC / ST), Bettiah, West Champaran, is set aside.

The appeal stands allowed.

The appellants, above-named, are directed to be released on bail, in the event of their arrest or



surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional District and Sessions Judge cum Special Judge (SC / ST), Bettiah, West Champaran, in connection with Dhanha P. S. Case No. 158 of 2020, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

(Ashutosh Kumar, J)

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