

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1176 of 2021

Arising Out of PS. Case No.-55 Year-2019 Thana- MAHILA P.S. District- Araria

1. SHAKIL KHAN @ MD. SHAKIL KHAN S/o Jahir Khan R/o village- Pathraha, Ward No. 5, P.S.- Ghurana, District- Araria
2. Ajmer Alam @ Ajmer Khan @ Jmer Alam S/o Shakil Khan @ Md. Shakil Khan R/o village- Pathraha, Ward No. 5, P.S.- Ghurana, District- Araria
3. Md. Sonu Khan @ Md. Ahtesham @ Ehtesham S/o Shakil Khan @ Md. Shakil Khan R/o village- Pathraha, Ward No. 5, P.S.- Ghurana, District- Araria

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rajesh Kumar Jha

For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 29-07-2021 Heard learned counsel for the appellants, learned Special P.P. for the State and learned counsel for the informant through virtual mode.

Learned counsel for the appellants is directed to remove the defects, as pointed out by the Office, within a period of four weeks after restoration of normalcy.

The appellants have challenged the order dated 09.11.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Araria in ABP No. 1559/20 in connection with Araria (Mahila) P.S. Case No. 55/19 registered for the offences under sections 376, 504, 341, 323, 34 of the Indian Penal Code and 3(xi), 3(2)(v) of SC/ST (Prevention of Atrocities) Act whereby the prayer made on behalf of the appellants for grant of anticipatory bail has



been rejected.

Prosecution allegation, in short, is that while the informant was returning to her house after discharging her duty, the accused person committed rape on her and also abused her by taking her caste name.

It has been submitted on behalf of the appellants that there is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. As far as appellant no. 1 is concerned, it is alleged that he had committed rape upon the victim. On behalf of the appellants, it has been submitted that the alleged occurrence is said to have taken place on 09.05.2019 for which F.I.R. was instituted on 29.05.2019. There was delay of 20 days in instituting the case. The delay has not been explained by the prosecution. The medical report of the victim is Annexure-2 to the present application. The said medical report does not support the allegation of commission of rape. So far appellant nos. 2 and 3 are concerned, they are said to have assaulted the victim but no deadly weapon is said to have been used in course of the occurrence. The alleged occurrence has not taken place within public view. Hence, no offence under SC/ST Act is made out in the present case.

On behalf of the State and the informant, it is submitted that the appellants are named in the F.I.R.

Considering the aforesaid facts and circumstances, the



order dated 09.11.2020 passed by learned 1st Additional Sessions Judge-cum- Special Judge, Araria in ABP No. 1559/20 in connection with Araria (Mahila) P.S. Case No. 55/19, is set aside.

The appeal stands allowed.

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 bonds to the satisfaction of learned 1st Additional Sessions Judge-cum- Special Judge, Araria in connection with Araria (Mahila) P.S. Case No. 55/19.

Once the normalcy is restored, the appellants shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) each 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)

Pankaj/-

U		T	
---	--	---	--

