

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1320 of 2021

Arising Out of PS. Case No.-13 Year-2016 Thana- SC/ST District- Araria

-
1. JABITARA KHATOON @ JABITARA DEVI W/o- Laxmi Prasad Nayak
Resident of Village- Omnagar, Ward No. 8, Araria, P.S. and District- Araria.
 2. Sunil Kumar Rajak S/o- Late Ramprit Rajak Resident of Village- Omnagar,
Ward No. 8, Araria, P.S. and District- Araria.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Gopal Kumar Jha, Adv.

For the Respondent/s : Mr. Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 26-07-2021

Re: **Interlocutory Application No. 1 of 2021**

This Interlocutory Application has been filed for
condoning the delay of 36 days in preferring the memo of
appeal.

For the reasons explained in the application, the delay
of 36 days in preferring the memo of appeal is condoned.

The Interlocutory Application No. 1 of 2021 stands
allowed.

Criminal Appeal (SJ) No. 1320 of 2021

Heard the learned counsel for the appellants and
the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated



17.09.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in A.B.P. No. 1253 of 2020 in Spl. (SC/ST) Case No. 34/2017 arising out of Araria (SC/ST) P.S. Case No. 13/2016, whereby the prayer made on behalf of the appellants for grant of anticipatory bail for the offences under Sections 323, 341, 354 (B), 379, 504, 506 and 34 of the Indian Penal Code and Section 3(1)(r) of SC/ST (POA) Act has been rejected.

It has been submitted on behalf of the appellants that according to the allegations levelled in the First Information Report, the informant was subjected to ignominy and was also assaulted. The police after investigation submitted final report false against appellant no. 2 and chargesheeted appellant no. 1 under Section 504 of the Indian Penal Code. However, differing with the police report, cognizance has been taken against both the appellants under Sections 323, 341 354(A), 380, 504/34 of the Indian Penal Code and under Section 3(1)(r) of the SC/ST (Prevention of Atrocities) Act.

Though the appellant no. 1 is accused in many



cases about which reference has been given in para- 3 of the memo of appeal but in all such cases, she is on bail.

Learned counsel for the appellants has submitted that the accusations in the F.I.R. clearly reveal that there was a dispute with respect to carriage charges. The accusations have been exaggerated and the police did not find truth in the matter. Precisely, for this reason one of the appellants was not sent up for trial. It is thus submitted that the offence under SC/ST (Prevention of Atrocities) Act cannot be said to have been made out against both the appellants.

For the reasons afore-stated, the order dated 17.09.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria, 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 his furnishing bail bonds in the sum of Rs. 10,000 (Rs. Ten



Thousand) with two sureties of like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Araria, in connection with Spl. (SC/ST) Case No. 34/2017 arising out of Araria (SC/ST) P.S. Case No. 13/2016.

(Ashutosh Kumar, J)

sunilkumar/-

U			
---	--	--	--

