

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1689 of 2021

Arising Out of PS. Case No.-270 Year-2020 Thana- SURSAND District- Sitamarhi

1. MUKESH MISHRA @ MUKESH KUMAR MISHRA Son of Shyam Sundar Mishra Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
2. Rajesh Mishra Son of Shyam Sundar Mishra Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
3. Aditya Mishra Son of Mukesh Mishra Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
4. Raj Kumar Thakur Son of Makhan Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
5. Vikash Thakur Son of Ram Kumar Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
6. Sujit Thakur Son of Rabindra Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
7. Rajesh Thakur Son of Rabindra Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
8. Rabindra Thakur Son of Khomari Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
9. Golu Thakur Son of Saroj Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
10. Bhogendra Thakur Son of Deochandra Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
11. Naresh Thakur Son of Late Bikram Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
12. Nawal Kumar Thakur Son of Yogi Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
13. Chintu Thakur Son of Naval Kishor Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
14. Mintu Thakur Son of Kulnandan Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
15. Sonu Thakur Son of Kulnandan Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
16. Puspam Kumar Thakur @ Golu Son of Ramashankar Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
17. Uday Thakur Son of Harideo Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
18. Brajesh Thakur Son of Devendra Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
19. Raman Kumar Mishra Son of Saligram Mishra Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
20. Rakesh Thakur Son of Gouri Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
21. Sunil Thakur Son of Gauri Thakur Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.



22. Amit Mishra Son of Saligram Mishra Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
23. Sarwesh Mishra Son of Sambhu Mishra Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
24. Munna Mishra Son of Sambhu Mishra Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
25. Sambhu Mishra Son of Rambodh Mishra Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.
26. Umesh Kapar Son of Rambrichh Kapar Resident of village - Bhittha Bazar, P.S. Sursand, District - Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Birendra Kumar, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. P.P

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

2 26-07-2021 As prayed for, let the learned counsel appearing for the appellants remove the defect(s), as pointed out by the office vide its notes dated 20.03.2021, within four weeks of starting of Court proceeding in physical mode in normal course.

Learned counsel appearing on behalf of the appellants seeks permission to withdraw the application filed on behalf of the Appellant No. 12, namely, Nawal Kumar Thakur as he has already been apprehended by the Police.

In view of the above, the application filed on behalf of the **Appellant No. 12, namely, Nawal Kumar Thakur** is dismissed as withdrawn.

Heard learned counsel for the appellant Nos. 1 to



11 and 13 to 26 and learned Spl. PP for the State through video conferencing.

This is an appeal under Section 14(A)(2) of the SC/ST (P.O.A) Act against the refusal of prayer for pre-arrest bail vide order dated 27.11.2020 passed by learned Addl. Sessions Judge-I-cum Special Judge, SC/ST Act, Sitamarhi in connection with Sursand P.S. Case No. 270 of 2020, registered under Sections 147, 149, 323, 324, 307 and 504 of the Indian Penal Code and Section 3(i)(r) of the SC/ST (P.O.A) Act.

Accusation is that in the evening of 04.09.2020, 27 persons named in the F.I.R., including appellant Nos. 1 to 11 and 13 to 26 came in the Mohalla of informant Rampriti Ram and started to abuse and caused assault through Lathi-Danda and by pelting brick and stones and they also denoted the informant's caste Chamar in which seven people of informant's mohalla also sustained injury in the occurrence.

Learned counsel appearing on behalf of appellant Nos. 1 to 11 and 13 to 26 submits that, in fact, due to quarrel in between children, occurrence of Marpit took place in which appellants' side also sustained injuries regarding which Sursand P.S. Case No. 272 of 2020 is also instituted under Sections 341, 323, 504, 506 and 307/34 of Indian Penal Code against



informant of present case and 15 others, but, informant implicated the appellants for the offence under Section 3(i),(r) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act with ulterior motive.

Learned Spl. PP for the State opposed the prayer for pre-arrest bail.

Having regard to the facts and circumstances of the case, let the above named appellant Nos. 1 to 11 and 13 to 26 be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Addl. Sessions Judge-I-cum Special Judge, SC/ST (POA) Act, Sitamarhi in connection with Sursand P.S. Case No. 270 of 2020, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and appeal is allowed.

(Rajendra Kumar Mishra, J)

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