

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1396 of 2021**

Arising Out of PS. Case No.-16 Year-2020 Thana- SC/ST District- Bhagalpur

1. Mahendra Prasad Mahto, S/o Late Jitan Mahto, R/o village- Ratanpur, P.S.- Shivnaryanpur, District- Bhagalpur
2. Pradesh Mahto @ Pradeshi Mahto @ Ravindra Kumar Mahto, S/o Shiv Narayan Mahto, R/o village- Ratanpur, P.S.- Shivnaryanpur, District- Bhagalpur
3. Jay Kant Mahto, S/o Late Moti Chand Mahto @ Moti Chand ,R/o village- Ratanpur, P.S.- Shivnaryanpur, District- Bhagalpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ranjan Kumar Jha, Advocate.
For the Respondent/s : Mr. APP

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

2 23-02-2021 In view of the submission and undertaking of the learned counsel for the appellants, at the time of hearing of this application, through Video Conferencing, that he would remove the defect(s), as pointed out by the office, within four weeks of starting of the Court proceeding in physical mode, he is permitted to remove the same accordingly.

Learned counsel appearing for the appellants seeks permission to withdraw this application with respect to appellant nos. 2 and 3, namely, Pradesh Mahto @ Pradeshi Mahto @ Ravindra Kumar Mahto and Jay Kant Mahto, as both appellants have been arrested by the police.



Permission is accorded.

Accordingly, this Criminal Appeal is dismissed as withdrawn with respect to appellant nos. 2 and 3.

Heard learned counsel appearing for the appellant no.1, namely, Mahendra Prasad Mahto and the learned Additional Public Prosecutor appearing for the State.

This appeal, under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is directed against the order dated 28.11.2020 passed in Anticipatory Bail Petition No. 2055 of 2020, whereby and whereunder the learned IIIrd Additional Sessions Judge-cum-Special Judge (SC/ST Act), Bhagalpur, rejected the prayer of pre-arrest bail of the appellants in connection with Bhagalpur SC/ST P.S. Case No. 16 of 2020, registered under Sections 341, 323, 427 and 504/34 of the Indian Penal Code and Sections 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution case, in brief, is that in the morning of 25.07.2020, Mahendra Mahto (appellant no.1), Janardan Mahto, Sudin Mahto, Pradeshi Mhto (appellant no.2) and Jaikant Mahto (appellant no.3) came in front of the house of the informant, Ganesh Rajak on PCC road and started to cut the



PCC road then informant, Ganesh Mahto, made protest, on which, Mahendra Mahto (appellant no.1) started to abuse him, denoting his caste name "*Dhobi*". Thereafter, informant made protest saying them to stop the work of cutting the road, on which, all caused injury to him through fists and slaps and also tried to press his neck on folding *Gamcha*. On hearing *Hullah*, Horon Kisku, Lakedar Mahto, Sohil Tanti, Shankar Paswan and other villagers of the informant came and saved him. While the informant approached to the police station but his case was not lodged but, lastly, he went to the S.C./S.T. Police Station and lodged the present case.

Learned counsel appearing for the appellant no.1, Mahendra Prasad Mahto, submits that informant and the appellant no. 1 are co-villagers and due to dirty village politics, informant lodged the present case with false allegation of abusing the informant denoting his caste name "*Dhobi*". It is further submitted that it would appear from the FIR that while the occurrence is of 25.07.2020 but the present case has been lodged on 26.08.2020, after one month. He further submits that if the allegation of abusing the informant denoting his caste name is taken to be true, then also it would not come in the preview of public view, as after the occurrence the villagers



reached at the place of occurrence.

Having considered the facts and circumstances of the case, the impugned order is set aside with respect appellant no. 1, Mahendra Prasad Mahto, and this appeal in his respect is allowed.

Let the appellant no.1, above named, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-III-Cum-Special Judge (SC/ST Act), Bhaglapur, in connection with ABP No. 2055 of 2020, arising out of Bhagalpur SC/ST P.S. Case No. 16 of 2020, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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