

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1331 of 2021

Arising Out of PS. Case No.-220 Year-2020 Thana- THawe District- Gopalganj

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1. SANTOSH SINGH Son of Late Tej Narayan Singh @ Tija Singh Resident of Village - Ramchandrapur, P.S.- Thawe, District - Gopalganj- 841440
 2. Piyush Singh Son of Pradeep Singh Resident of Village - Ramchandrapur, P.S.- Thawe, District - Gopalganj- 841440

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Surendra Kishore Thakur, Advocate

For the Respondent/s : Mr.A.G

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 27-05-2021 Heard learned counsel for the appellants and learned
Spl. P.P. for the State through virtual mode.

Counsel for the appellants is directed to remove the defect(s), as pointed out by the office, within a period of four weeks from the date of restoration of normalcy.

The matter relates to grant of anticipatory bail to the appellants in connection with a case registered for the offences under Sections 147, 148, 149, 341, 323, 324, 325, 307, 427, 435, 504, 506 of the Indian Penal Code and Section 3(i)(r)(s)(w) (z), 3(ii)(v) of the SC/ST (Prevention of Atrocities) Act, 1989 and Section 27 of the Arms Act.

The prosecution case, in short is that the accused

persons including the appellants variously armed with weapons surrounded the informant and accused persons abused the informant by taking his caste name. Appellant No.2 fired from country made pistol upon nephew of the informant, namely, Sandeep Ram, who sustained injury on elbow and fell down. Appellant No.1 fired on Asha Devi, who sustained injury on back side. The accused persons also assaulted the informant by means of sword and iron rod, due to which he sustained injury. The accused persons set on fire the informant's house.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent and there is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. From perusal of the lower court record, it appears that there is no injury report on the record available in support of the allegations of assault made in the F.I.R. It is a case and counter case between the parties. Free fight is alleged to have taken place. The injuries on the appellants side have not been explained by the prosecution. The prosecution has not come with clean hands. The alleged occurrence has not taken place within public view. Hence no offence under the SC/ST Act is attracted in the present case.

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

In view of the aforesaid facts and circumstances, the order dated 13.01.2021, passed by the learned Additional Sessions Judge 1st-cum-Special Judge, SC/ST, Gopalganj vide A.B.P. No. 31 of 2021 in connection with Thawe P.S. case No.220 of 2020, is set aside. The criminal appeal is allowed.

Let the appellants, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bond to the satisfaction of learned Additional Sessions Judge 1st-cum-Special Judge, SC/ST, Gopalganj in connection with Thawe P.S. case No.220 of 2020.

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

Narendra/-

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