

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1335 of 2021**

Arising Out of PS. Case No.-163 Year-2020 Thana- KALYANPUR District- East Champaran

1. DHARMENDRA DAS Son of Jitu Das Resident of Village - Husaini, P.S.- Kesariya, District - East Champaran.
2. Jitu Das Son of Bhikhar Das Resident of Village - Husaini, P.S.- Kesariya, District - East Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjay Kumar Tiwari
For the Respondent/s : Mr.A.G

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 12-04-2021 Heard learned counsel for the appellants and learned
Special P.P.for the State 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.

The appellants have challenged the order dated 05.10.2020 passed by learned 1st Additional District and Sessions Judge-cum- Special Judge, SC/ST), East Champaran at Motihari in ABP No. 2047 of 2020 in connection with Kalyanpur P.S. Case No. 163 of 2020 registered for the offences under sections 147, 148, 149, 323, 324, 325, 326, 307, 302,, 504, 506 and 427 of the Indian Penal Code and 3(I)(r)(s)



of SC/ST 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 along with others returning after attending a function, the accused persons forming unlawful assembly brutally assaulted the brother of the informant and others due to which brother of the informant sustained injuries and later succumbed to the injury. The accused persons also abused them by taking caste name.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. The appellants are said to be member of unlawful assembly. No specific overt act is alleged against the appellants. Specific allegation of assault is alleged against co-accused namely Ratnesh Prasad @ Ratnesh Prasad. No occurrence is said to have taken place within public view. Hence, no offence under SC/ST Act is made out in the present case.

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

Considering the aforesaid facts and circumstances,



this Court is inclined to set aside the order dated 05.10.2020 passed by learned 1st Additional District and Sessions Judge-cum- Special Judge, SC/ST), East Champaran at Motihari in ABP No. 2047 of 2020 by which the anticipatory bail of the appellants was rejected.

Let the appellants above named, in the event of arrest/surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of 1st Additional District and Sessions Judge-cum- Special Judge, SC/ST), East Champaran at Motihari in connection with Kalyanpur P.S. Case No. 163 of 2020.

The appeal stands allowed.

(Sudhir Singh, J)

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