

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.552 of 2020

Arising Out of PS. Case No.-502 Year-2019 Thana- KHAJEKALA District- Patna

1. DEEPAK @ DEEPAK KUMAR Son of Barku @ Subendra Prasad Resident of Mohalla - Maharaj Ki Dyorhi, (Machharhatta), P.S.- Khajekala, Distt - Patna.
2. Sunny @ Sunny Kumar Son of Barku @ Subendra Prasad Resident of Mohalla - Maharaj Ki Dyorhi, (Machharhatta), P.S.- Khajekala, Distt - Patna.
3. Munny @ Manish Kumar Son of Barku @ Subendra Prasad Resident of Mohalla - Maharaj Ki Dyorhi, (Machharhatta), P.S.- Khajekala, Distt - Patna.
4. Barku @ Subendra Prasad Son of Nagina Mahto Resident of Mohalla - Maharaj Ki Dyorhi, (Machharhatta), P.S.- Khajekala, Distt - Patna.
5. Rekha Devi Wife of Barku @ Subendra Prasad Resident of Mohalla - Maharaj Ki Dyorhi, (Machharhatta), P.S.- Khajekala, Distt - Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Kumar Mritunjay Narain
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 04-03-2021 Heard both sides.

The appellants filed this appeal under Section 14 (A) (2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) against the order dated 16.12.2019 passed by the learned Additional Sessions Judge, VIII-cum- Special Judge, SC/ST Act, Patna in ABP No. 9620/2019 by which the anticipatory bail petition of the appellants has been rejected and for grant of anticipatory bail in Special case No. 555/2019,



Khajekala P.S. case No. 502/ 2019, registered under Section 341, 323, 379, 504, 34 of the IPC and u/s 3(i)(x)/ (1) a of SC/ ST Act.

The informant alleged that on 20.11.2019 at 3'0 clock the informant and his brother were working in his own shoe repair shop. In the meantime, accused, Deepak Prasad came in his shop and took out money from the box of the shop of informant. When the informant protested Deepak Prasad started abusing and assaulting the informant. Father, mother and brothers of Deepak Prasad also came and assaulted the informant. Deepak Prasad assaulted the informant with iron rod on his head. Barku Prasad also assaulted the informant and his brother.

The learned counsel for the appellants submits that no offence u/s 379 of the IPC is made out. There is no motive for taking out money from the Galla of shop of the informant. All the family members of the appellants have been implicated in this case. It is further submitted that no specific allegation is made against any of the appellants. No offence under Section u/s 3(i)(x)/ (1) a of SC/ ST Act is made out. It is further submitted that the case has been compromised but it appears from perusal of the FIR itself that Deepak Prasad went inside



the shop of the informant and forcibly took out money from the Galla of the informant. When the informant protested brothers, father and mother of Deepak Prasad came and assaulted the informant and his brother. There is specific allegation of assault against Sunny, Munny and Barku and the informant alleged that they all assaulted and abused the informant and his brother.

Having considered the facts aforesaid, I am not inclined to enlarge appellants No.1. Deepak @ Deepak Kumar, 2. Sunny @ Sunny Kumar, 3. Munny @ Manish Kumar and 4. Barku @ Subendra Prasad on anticipatory bail and their appeal is dismissed.

So far as case of appellant No.5. Rekha Devi is concerned, she is a lady and save and except the fact that she is alleged to have come on the place of occurrence inside the shop of informant but no specific allegation is made against her, I am of the view that she deserves anticipatory bail. Accordingly, this appeal is allowed and the impugned order dated 16.12.2019 passed by the learned Additional Sessions Judge, VIII-cum-Special Judge, SC/ST Act, Patna in ABP No. 9620/2019 to that extent is set aside. The appellant No.5, Rekha Devi, in the event of her arrest/ surrender before the court below within a period of four weeks from the date of receipt/ production of a copy of this



order is directed to be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VIII-cum- Special Judge, SC/ST Act, Patna in connection with Special case No. 555/2019, Khajekala P.S. case No. 502/ 2019, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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