

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1928 of 2021

Arising Out of PS. Case No.-98 Year-2019 Thana- KHIRI MORE District- Patna

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1. Prem Ranjan Kumar S/o Umakant Yadav
 2. Chandra Bhusan Yadav S/o Bimal Yadav
 3. Uma Kant Yadav S/o Laxman Yadav
 4. Laxman Yadav S/o Late Navrang Yadav
 5. Arvind Kumar @ Arvind Yadav S/o Laxman Yadav
- All are Resident of Village - Taranpur, P.S. and P.O. - Khiri More, District - Patna.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellants : Mr. Saket Anand, Advocate
For the Respondent : Mr. Binay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 26-05-2021

Heard Mr. Saket Anand, learned counsel for the appellants and Mr. Binay Krishna, learned Special Public Prosecutor appearing for the State.

2. The instant appeal under Section 14-A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') has been preferred by the appellants challenging the order dated 16.01.2021 passed in ABP No.114 of 2021 by the learned Special Judge, SC/ST Act, Patna whereby he has rejected their application for grant of pre-arrest bail in connection with Khiri More P.S. Case No.98 of



2019 corresponding to Spl. (SC/ST Act) Case No.577 of 2019 dated 02.12.2019 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 353, 332, 333, 307, 504, 506 of the Indian Penal Code and Section 3(1) (r) of the Act.

3. The prosecution case is based on the written report of one Hariram Manjhi. He has stated in the written report dated 02.12.2019 that on 30.11.2019, he had proceeded to the village-Taranpur along with armed force to arrest the accused Naveen Yadav in connection with Khiri More P.S. Case No.35 of 2019 and to inquire into the matter relating to an application filed by one Anil Pandey. As soon as he along with the armed force reached at the house of Naveen Yadav, all the named accused persons along with 40-50 unknown accused persons started brick batting. They abused and assaulted him taking his caste name. They also attempted to snatch their arms. The matter was informed to the senior police officials, who reached at the place of occurrence whereafter, the accused persons fled away.

4. Learned counsel appearing for the appellants submits that the appellants are innocent and they have committed no offence. They have been implicated in the present case with an oblique motive. He contended that a vague and



omnibus allegation has been made against several named and 40-50 unknown accused persons. He pointed out that the falsity of the case would be apparent from the fact that for an occurrence dated 30th November, 2019, the information was lodged by the informant in the police station on 2nd of December, 2019. He contended that the informant has not even disclosed the abusive word or the caste name taken by the accused persons at the time of occurrence. He contended that apparently the offence alleged under Section 3(1)(r) of the Act is not attracted against the appellants.

5. Learned Special Public Prosecutor appearing for the State has opposed the prayer made on behalf of the appellants. He contended that the court below has rightly rejected the application for grant of pre-arrest bail to the appellants. He contended that the informant has explained the reason for delay caused in submitting the written report. He has stated that since he was busy in maintaining law and order situation, the written report could not be submitted earlier.

6. Having heard the parties and perused the materials on record, I find force in the submissions made on behalf of the appellants. It is surprising that the informant being a police officer has taken a plea for the delay of two days caused



in submitting the written report as his pre-occupation in maintaining law and order situation. In the written report, nothing has been stated about any law and order problem prevailing at the place of occurrence rather it has been stated that after the police reinforcement came, the miscreants left the place. It is also surprising that in spite of senior officers having reached at the place of occurrence immediately, the FIR was belatedly instituted. The explanation given for the delay caused in instituting the first information report, prima facie, does not appear to be bona fide. Moreover, the informant has neither disclosed the abusive words nor the caste name uttered by the accused persons at the time of occurrence. Prima facie, the ingredients of the offence punishable under the Act are not attracted.

7. Accordingly, the impugned order dated 16.01.2021 passed by the learned Special Judge, SC/ST Act, Patna in connection with Khiri More P.S. Case No.98 of 2019 is set aside.

8. The appellants are directed to be released on bail in the event of their arrest or surrender on furnishing bail bond of Rs.10,000/- (rupees 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, Patna in connection with Khiri More P.S. Case No.98 of 2019 corresponding to Spl. (SC/ST Act) Case No.577 of 2019.

9. The appeal stands allowed.

10. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me electronically by the Joint Registrar-cum-Addl. PPS.
- (ii) The corrected copy of the order shall be transmitted by me to the Joint Registrar-cum-Addl. PPS electronically, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let steps be taken by the Joint Registrar-cum-Addl. PPS/registry for up-loading of the present order



without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J.)

sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.05.2021
Transmission Date	30.05.2021

