

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.812 of 2020

Arising Out of PS. Case No.-410 Year-2019 Thana- BARHARIA District- Siwan

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1. AZAD @ AZAD MANSOORI
 2. Asrar Mansoori
 3. Reyaz @ Reyaz Mansoori,
All are Sons of Late Taj Mohhamad @ Taj Mahamad Resident of Village -
Safi Chapra, P.S.- Barharia, District - Siwan.
- Appellant/s
- Versus
- The State of Bihar
- Respondent/s
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Appearance :

For the Appellant/s : Mr.Ajay Kumar Pandey, Adv.
For the Respondent/s : Mr.Sadanand Paswan, Special P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 07-04-2021 Heard both sides.

The appellants filed this appeal under Section 14(A)(2) of the S.C./S.T. Act against the order dated 07.01.2020 passed by learned Addl. Sessions Judge 1st-cum-Special Judge, Siwan by which the anticipatory bail of the appellants has been rejected in Barharia P.S. Case No.410 of 2019 registered under Sections 341, 342, 323, 324, 354, 504, 379 and 34 of the Indian Penal Code and under Section 3(i)(r)(s) of the S.C./S.T. Act.

The informant, Babunti Devi alleged that on 17.11.2019, Shahnawaz Mansoori came to her door and caught her hand with bad intention. When the informant protested, he started assaulting and abusing the informant and put her down on the ground. Nitesh Kumar, the nephew of the informant came. Shahnawaz also assaulted him. It is further alleged that Reyaz Mansoori(appellant No.3), Azad Mansoori(appellant No.1) and Asrar Mansoori(appellant No.2) came there. They were armed with different weapons and they started abusing the informant



by naming her caste. Azad assaulted the informant on her head with a sharp edge weapon. Asrar also assaulted. Reyaz assaulted Nitesh Kumar with a sharp edge weapon.

The learned counsel for the appellants submits that in fact occurrence took place on 17.11.2019. On the same day, Rahimun Nisha lodged Barhariya P.S. Case no.411 of 2019 against the informant of the present case and others. They assaulted Rahimun Nisha on the allegation that she damaged the garlic crops. When Babunti Devi came to know about the institution of Barhariya P.S. Case No.411 of 2019, Babunti Devi lodged this case after five days of the occurrence but she did not offer any explanation for lodging the case after five days of the occurrence. The injuries found on the persons of the informant and her nephew are simple in nature. The informant has taken resort to the special provision in order to settle the land dispute.

Mr. Sadanand Paswan, learned Special P.P. vehemently opposed the prayer for anticipatory bail and submits that prima facie case under different Sections of the S.C./S.T. is made out. The appellants are alleged to have abused and assaulted the informant and her nephew and, therefore, the appellants do not deserve anticipatory bail.

Having considered the submissions of both sides and on perusal of the records, it appears that occurrence took place on 17.11.2019 but the informant gave her fardbeyan on 22.11.2019. The informant did not disclose the reasons for instituting the case after five days of the occurrence. There is a counter version. There appears that both sides entered into scuffle and they assaulted on each other on account of some petty dispute for damaging the crops. Thus, I find that the appellants deserve anticipatory bail.



Taking into consideration the facts aforesaid, the appeal is allowed, the order dated 07.01.2020 is set aside and let the appellants, above named, in the event of their arrest or surrender within a period of four weeks be released on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Addl. Sessions Judge 1st-cum-Special Judge, Siwan in connection with Barhariya P.S. Case No.410 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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