

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1998 of 2021

Arising Out of PS. Case No.-282 Year-2017 Thana- BHAGWAN BAZAR District- Saran

1. RAJESH CHOUHAN, S/O KAPILDEO MAHTO Resident of At- Kashi Bazar, Maharani Mandir, P.S.- Bhagwan Bazar, District- saran at Chhapra
2. SAROJ KUMAR S/O KAPILDEO MAHTO Resident of At- Kashi Bazar, Maharani Mandir, P.S.- Bhagwan Bazar, District- saran at Chhapra
3. ASHOK KUMAR S/O KAPILDEO MAHTO Resident of At- Kashi Bazar, Maharani Mandir, P.S.- Bhagwan Bazar, District- saran at Chhapra
4. SUNIL KUMAR S/O KAILDO MAHTO Resident of At- Kashi Bazar, Maharani Mandir, P.S.- Bhagwan Bazar, District- saran at Chhapra
5. NAND KISHORE CHOUHAN S/O KAPILDEO MAHTO Resident of At- Kashi Bazar, Maharani Mandir, P.S.- Bhagwan Bazar, District- saran at Chhapra
6. VINAY KUMAR CHOUHAN @ VINAY CHOUHAN S/O KAPILDEO MAHTO Resident of At- Kashi Bazar, Maharani Mandir, P.S.- Bhagwan Bazar, District- saran at Chhapra
7. RAHUL KUMAR CHOUHAN @ RAHUL CHOUHAN S/O RAJESH CHOUHAN Resident of At- Kashi Bazar, Maharani Mandir, P.S.- Bhagwan Bazar, District- saran at Chhapra
8. MOTI MAHTO S/O SUGAN MAHTO Resident of At- Kashi Bazar, Maharani Mandir, P.S.- Bhagwan Bazar, District- saran at Chhapra
9. VIVEK KUMAR S/O PRATAP NARAYAN SINGH Resident of At- Kashi Bazar, Maharani Mandir, P.S.- Bhagwan Bazar, District- saran at Chhapra

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Yashraj Bardhan
For the Respondent/s	:	Mr.SPP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 13-08-2021 Heard Mr. Yashraj Bardhan, learned Advocate

for the appellants and Mr. Binay Krishna, learned Special

Public Prosecutor for the State.



The appellants have challenged the order dated 30.01.2021, passed by the learned ADJ-I cum Special Judge, SC/ST (POA) Act, Saran at Chapra, in A.B.P. No. 210 of 2020, arising out of Bhagwan Bazar P. S. Case No. 282 of 2017, dated 06.08.2017, whereby the prayer made on behalf of the appellants for grant of anticipatory bail for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307, 379, 504 and 506 of the Indian Penal Code and Section 3 (13) (c) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

The accusation in the F.I.R. is of the appellants having come to the house of the informant and assaulting the members of the prosecution party. Some of the persons of the prosecution party are also alleged to have been abused by their caste names, thus, attracting the mischief of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The learned counsel for the appellants has



submitted that the husband of the informant and his associates were the aggressors and had indulged in assaulting appellant no. 1 and others, in which occurrence, appellant no. 1 was injured and a case was filed by him *vide* Bhagwan Bazar P. S. Case No. 281 of 2017. The subject F.I.R. is later in point of time.

It has further been submitted that because of some dispute at the *Panchayat* level, an occurrence took place in which both sides had clashed against each other and consequently cases have been filed from both sides. However, it has been submitted that there has been an exaggeration of the accusation in the subject F.I.R., more particularly with respect to the offence under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. As far as the information of the appellants are concerned, none of the persons of the prosecution party are members of SC and ST community; rather of a high caste.

Three persons are said to have been injured in



the occurrence in the subject F.I.R.. Two of them, including the informant, have received only simple injuries.

Though the injury on one of the accused persons appears to be grievous but there is no conclusive opinion regarding that injury. It has thus been stated that some of the sections of the Indian Penal Code may appear to have been made out against the appellants but definitely not under any one of the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Taking into account the aforesaid submissions, this Court is inclined to interfere with the order with respect to appellant nos. 2 to 9; out of whom appellant nos. 2, 4, 5, 7 and 9 do not have criminal antecedents whereas appellant nos. 3, 6 and 8 have some cases against them but those are for minor offences.

For the aforesaid reasons, the order dated 30.01.2021, passed by the learned ADJ-I cum Special



Judge, SC/ST (POA) Act, Saran at Chapra, with respect to appellant nos. 2 to 9, is set aside.

The appeal with respect to appellant nos. 2 to 9 stands allowed.

The appellant nos. 2 to 9, above-named, are directed to be released on bail, in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned ADJ-I cum Special Judge, SC/ST (POA) Act, Saran at Chapra, in connection with Bhagwan Bazar P. S. Case No. 282 of 2017, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

Regard being had to the fact that the appellant no. 1 has four cases against him apart from the present case, I am inclined to interfere with the order impugned



in the present appeal, so far he is concerned.

The appeal with respect to appellant no. 1 is dismissed.

Should the appellant no. 1 surrender before the court below and seek bail, the court below shall take into account the fact that he too has been injured in the occurrence and that the other co-accused persons have been released on anticipatory bail, and an order shall be passed, without being prejudiced by the fact that the present petition on his behalf has not been entertained by this Court.

The appeal stands disposed off accordingly.

(Ashutosh Kumar, J)

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