

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1028 of 2020

Arising Out of PS. Case No.-145 Year-2019 Thana- MORKAHI District- Khagaria

1. Dhiraj Kumar, aged about 37 years (Male), Son of Devi Singh @ Devendra Singh, Resident of Village- Chatar, Police Station-Alauli, District-Khagaria.
2. Devi Singh @ Devendra Singh, aged about 63 years (Male), Son of Ram Prasad Singh, Resident of Village-Chatar, Police Station-Alauli, District-Khagaria.
3. Niraj Kumar, aged about 34 years (Male), Son of Devi Singh @ Devendra Singh, Resident of Village- Chatar, Police Station-Alauli, District-Khagaria.

... .. Appellants

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Appellants : Mr.Viveka Nandsingh, Advocate.
For the Respondent : Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 17-02-2021 Learned counsel for the appellants is directed to remove the defects, as pointed out by the office, within a period of four weeks.

Heard learned counsel for the parties.

The matter relates to grant of anticipatory bail to the appellants in connection with Special A.B.A. (SC/ST) No. 06/2020, arising out of Morkahi P.S. Case No. 145/2019, registered for the offences under Sections 147, 341, 323, 354, 504, 506 of the I.P.C., 27 of the Arms Act and 3(i)(r) of SC/ST Act.

The prosecution case, in short, is that on 03.11.2019



the informant was removing wild plant material. In the meantime, accused persons came and co-accused Jawahar Singh gave *Bullet* shot injury on the husband of the informant who saved himself but the said *Bullet* hit to Dheeraj Kumar. Other accused also assaulted the informant. Modesty was outraged. The informant is a Member of Scheduled Caste.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. The appellants have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against them. There is case and counter case between the parties. The injury on the accused side has not been explained by the prosecution. The prosecution has not come with clean hands. F.I.R. is said to be instituted after six days of occurrence. The delay has not been explained by the prosecution. The alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is attracted in the present case.

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

In view of the aforesaid facts and circumstances, the order dated 11.02.2020, passed by learned Additional Sessions Judge- Ist, Khagaria, in connection with Special A.B.A. (SC/ST)



No. 06/2020, arising out of Morkahi P.S. Case No. 145/2019, is set aside. The criminal appeal is allowed.

Accordingly, the appellants, above named, in the event of arrest or 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/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge- Ist, Khagaria, in connection with Special A.B.A. (SC/ST) No. 06/2020, arising out of Morkahi P.S. Case No. 145/2019.

(Sudhir Singh, J)

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