

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1238 of 2020

Arising Out of PS. Case No.-40 Year-2019 Thana- SAHODARA District- West Champaran

1. DHAMU YADAV Son of Late Jailal Yadav Resident of Village - Bedauli, P.S.- Sahodara, District- West Champaran
2. Anwat Yadav @ Anant Yadav Son of Jai Narayan Yadav Resident of Village - Bedauli, P.S.- Sahodara, District- West Champaran
3. Lalbabu Yadav Son of Uttam Yadav Resident of Village - Bedauli, P.S.- Sahodara, District- West Champaran
4. Vickey Kumar Son of Ramu Yadav Resident of Village - Bedauli, P.S.- Sahodara, District- West Champaran
5. Vineet Kumar Son of Ramu Yadav Resident of Village - Bedauli, P.S.- Sahodara, District- West Champaran
6. Dhanlal Kumar @ Dhani Lal Kumar Son of Anwat Yadav @ Anant Yadav Resident of Village - Bedauli, P.S.- Sahodara, District- West Champaran
7. Brij Kishor Yadav Son of Jai Narayan Yadav Resident of Village - Bedauli, P.S.- Sahodara, District- West Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sachida Nand Rai
For the Respondent/s	:	Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 22-02-2021 Heard the parties.

Learned counsel for the appellants is directed to remove the defect(s), as pointed out by the office, within a period of four weeks.

At the outset, learned counsel for the appellants submits that during pendency of this appeal, the appellant Nos. 1, 2, 3, 6 & 7 have already been taken into judicial custody and



hence, this appeal as against the appellant Nos. 1, 2, 3, 6 & 7 have become infructuous.

Accordingly, this appeal in respect of appellant Nos. 1, 2, 3, 6 & 7 is dismissed as withdrawn.

Now, the matter relates to grant of anticipatory bail to the appellant No. 4 & 5 only in connection with Sahodara P.S. Case No. 40 of 2019 registered for the offences under Sections 147, 148, 323, 324, 325, 354, 504, 506 of the Indian Penal Code and Sections 3(i)(x) of the SC/ST (POA) Act.

Allegedly, while the informant was sleeping, the accused persons came at his house and took him with them. It is further alleged that the accused persons assaulted the informant and his wife. In course of occurrence, the mobile of the informant was snatched away.

It has been submitted on behalf of the appellant Nos. 4 & 5 that they have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against them. General and omnibus allegation has been made against the appellant Nos. 4 & 5. No deadly weapon is said to have been used in course of the occurrence. There is case and counter case between the parties. Free fight is alleged to have taken place between the parties. The injury on the side of the accused has



not been explained by the prosecution. The prosecution has not come with clean hands. A petition (Annexure-2 to the present application) has been filed by the informant in the court below in which, he retracted from his earlier statement made in the FIR. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant Nos. 4 & 5 are named in the Complaint Case/F.I.R.

In view of the aforesaid facts and circumstances, the order dated 13-02-2020 passed by learned Additional District & Sessions Judge-Ist-cum-Special Judge, (SC/ST/POCSO) Act, Bettiah, West Champaran in Sahodara P.S. Case No. 40 of 2019 is set aside with regard to the appellant Nos. 4 & 5 only . The present Criminal Appeal is *allowed* with regard to the appellant Nos. 4 & 5 only.

Accordingly, let the appellant Nos. 4 & 5, above named, in the event of arrest or surrender before the learned court below within a period of eight weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District &



Sessions Judge-Ist-cum-Special Judge, (SC/ST/POCSO) Act,
Bettiah, West Champaran in connection with Sahodara P.S.
Case No. 40 of 2019.

(Sudhir Singh, J)

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