

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2502 of 2021**

Arising Out of PS. Case No.-108 Year-2020 Thana- KADWA District- Katihar

1. TUNTUN MAHALDAR S/O SUKHARU MAHALDAR R/o- Jaja, P.S.- Kadwa, Distt.- Katihar
2. Sukharu Mahaldar S/o Uday Mahaldar R/o- Jaja, P.S.- Kadwa, Distt.- Katihar
3. Mantu Mahaldar S/o Chamaklal Mahaldar R/o- Jaja, P.S.- Kadwa, Distt.- Katihar

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s : Ms. Usha Kumari-I, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER**

3 07-09-2021 Heard Mr. Sanjeev Kumar Singh, learned

counsel for the appellants and Ms. Usha Kumari-I,

learned Spl. PP for the State.

The appellants have challenged the order dated

17.02.2021 passed by the learned Additional District

and Sessions Judge-I-cum-Special Judge, Katihar in

A.B.P. No. 05 of 2021 arising out of Kadwa P.S. Case

No. 108 of 2020, whereby the prayer made on behalf of

the appellants for grant of pre-arrest bail for the

offences under Sections 341, 323, 325, 354, 307, 504,



506 and 34 of the Indian Penal Code and Sections 3(1) (r)(s) 3(2)(va) of the SC/ST (Prevention of Atrocities) Act has been rejected.

The accusation in the FIR is that the appellants and others had attempted to outrage the modesty of the victim girl. On protest, the members of the prosecution party were assaulted.

Learned counsel for the appellants has submitted that the accusation of molesting the victim is on other accused persons and not on the appellants. He has further submitted that during the course of investigation of this case, it has come to light that there is a dispute with respect to drainage of water in the field. An occurrence is said to have taken place because of such dispute but in order to add seriousness to the accusation, it has been alleged that a female member was attempted to be molested.

No such occurrence, it has been argued, as narrated in the FIR ever took place. This gets reflected



clearly from the injuries suffered by the victim which have been opined to be simple in nature.

There is a counter version of the occurrence as well.

This Court had called for the case diary and had granted provisional bail to the appellants.

Perused the case diary.

For the arguments advanced on behalf of the appellants, the appeal is allowed.

The order dated 17.02.2021 is set aside.

The provisional bail granted to the appellants is hereby confirmed.

The appellants shall remain on the same bail bonds.

(Ashutosh Kumar, J)

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