

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2530 of 2021

Arising Out of PS. Case No.-428 Year-2020 Thana- SUGAULI District- East Champaran

1. PANNA LAL KUSHWAHA @ PANNA LAL PRASAD Son of Rudal Kushwaha Resident of Village- Mudda Chapra, P.S.- Sugauli, District- East Champaran.
2. RAJAN KUSHWAHA @ RAJAN KUMAR SON OF CHAMAN KUSHWAHA Resident of Village- Mudda Chapra, P.S.- Sugauli, District- East Champaran.
3. RAMOD KUSHWAHA @ RAMOD PRASAD SON OF HARI KUSHWAHA Resident of Village- Mudda Chapra, P.S.- Sugauli, District- East Champaran.
4. AWADHESH KUSHWAHA @ AWADHESH PRASAD Son of Manu Kushwaha Resident of Village- Mudda Chapra, P.S.- Sugauli, District- East Champaran.
5. BISHWASHI KUSHWAHA @ VISHWASI PRASAD @ KUSHWAHA SON OF LATE BIPAT KUSHWAHA Resident of Village- Mudda Chapra, P.S.- Sugauli, District- East Champaran.
6. MADAN KUSHWAHA @ MADAN SAH @ MADAN SINGH @ MADAN KU. SON OF DASHRATH KUSHWAHA Resident of Village- Mudda Chapra, P.S.- Sugauli, District- East Champaran.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. SUGANDHI DEVI WIFE OF LATE HARENDRA MANJHI Resident of Village- Kobaiya Bazar, Mushahari Tola, P.S.- Sugauli, District- East Champaran.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 02-09-2021 Heard Mr. Madhurendra Kumar, learned counsel
for the appellants and Ms. Usha Kumari-I, learned Spl.
PP for the State.

The appellant have challenged the order dated
20.02.2021 passed by the learned 1st Additional



Sessions Judge cum Special Judge, SC/ST Act, East Champaran at Motihari in A.B.P. No. 535 of 2021, arising out of Sugauli P.S. Case No. 428 of 2020, whereby the prayer made on behalf of the appellants for grant of pre-arrest bail for the offences under Sections 147, 149, 341, 342, 323, 307 and 302 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r)(s), 3(2)(v) of the SC/ST (Prevention of Atrocities) Act has been rejected.

Many persons have been made accused in the FIR with the allegation of assaulting and firing at the deceased. The occurrence is said to have taken place on 06.08.2020. The deceased expired on 12.08.2020, but the case has been lodged on 28.08.2020. There is no explanation whatsoever regarding such delay in lodging the FIR.

The specific allegation of opening fire and assaulting the members of the prosecution party is on other accused persons. The appellants have neither been named in the FIR nor any witness during the course of investigation has named them. Their names have, for the first time, transpired in the supervision note of the superior police officer. The accusation under the SC/ST (Prevention of Atrocities) Act is also not made out against the appellants.



For the reasons aforesated, the order dated 20.02.2021 is set aside.

The appeal stands allowed.

On the appellants surrendering before the court below within a period of eight weeks, they shall be released on bail 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 1st Additional Sessions Judge cum Special Judge, SC/ST Act, East Champaran at Motihari in A.B.P. No. 535 of 2021, arising out of Sugauli P.S. Case No. 428 of 2020.

(Ashutosh Kumar, J)

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