

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2562 of 2021**

Arising Out of PS. Case No.-205 Year-2019 Thana- CHAINPUR District- Kaimur (Bhabua)

1. Ghanshyam Bind @ Ghanshyam Prasad Son Of Late Jhura Bind Resident Of Village - Hargaon, P.S.- Chainpur, District - Kaimur At Bhabua
2. Vimal Bind Son Of Late Jhura Bind Resident Of Village - Hargaon, P.S.- Chainpur, District - Kaimur At Bhabua

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Tribhuwan Narayan- Advocate
For the Respondent/s : Mr. Sadanand Paswan- S.P.P.

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

2 22-07-2021 Heard Mr. Tribhuwan Narayan, the learned Advocate

for the appellants and Mr. Sadanand Paswan, the learned Special

Public Prosecutor for the State.

The appellants have challenged the order dated 03.03.2021 passed by the learned Additional Sessions Judge-1st-cum-Special Judge, Kaimur at Bhabua in connection with Chainpur P. S. Case No.205 of 2019, instituted for the offences under Sections 341, 323, 448, 354(B), 34 of the Indian Penal Code and Section 3(i)(r)(s) (w), 3(2)(ra) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.



It is alleged in the F.I.R. that while the informant was sleeping in her house, the appellants and others entered her house and tried to disrobe her. When she protested, the accused persons including the appellants assaulted, abused and demeaned her by taking her caste name. At that time, neither the husband nor the brother-in-law of the informant were present in the house.

The learned Advocate for the appellants has submitted that the appellants are own brothers. The police, after investigation, submitted charge-sheet against one of the other brothers of the appellants but did not send up the appellants for trial. However, differing with the police report, the Special Court has taken cognizance against the appellants as well.

The learned Advocate for the appellants has submitted that because of their being brothers of one Tulsi Bind, they too have been made accused in this case.

A protracted investigation has disclosed that the appellants are not to be blamed for the aforesaid occurrence. The accusation under the SC/ST (P.O.A.) Act therefore is not made out from the facts of the case so far as the appellants are concerned.



For the afore-stated facts, the order dated
03.03.2021, referred to above, is set-aside.

The appeal stands allowed.

The appellants, above-named, in the event of their
arrest or surrender before the learned Court below within a
period of eight weeks, are directed to be released on bail on
their furnishing bail-bonds in the sum of Rs.10,000/- (Rupees
Ten Thousand) each with two sureties of the like amount each to
the satisfaction of learned Additional District and Sessions
Judge-1st-cum-Special Judge, Kaimur at Bhabua in connection
with Chainpur P. S. Case No.205 of 2019, subject to the
conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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