

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2556 of 2021**

Arising Out of PS. Case No.-109 Year-2020 Thana- DINARA District- Rohtas

1. O.P. Mishra @ Om Prakash Mishra Son Of Bijay Mishra Resident Of Village - Madhukarpur, Police Station- Dinara, District - Rohtas.
2. Om Prakash Mishra Son Of Ramayan Mishra Resident Of Village - Madhukarpur, Police Station- Dinara, District - Rohtas.
3. Vikash Mishra Son Of Brij Kishore Mishra Resident Of Village - Madhukarpur, Police Station- Dinara, District - Rohtas.
4. Golden Mishra Son Of Kamal Kishore Mishra Resident Of Village - Madhukarpur, Police Station- Dinara, District - Rohtas.
5. Santosh Mishra Son Of Sudarshan Mishra Resident Of Village - Madhukarpur, Police Station- Dinara, District - Rohtas.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Atul Kumar Pandey- Advocate
For the Respondent/s : Ms. Usha Kumari-1-S.P.P.

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

2 20-07-2021 Heard Mr. Atul Kumar Pandey, the learned Advocate

for the appellants and Ms. Usha Kumari-1, the learned Special

Public Prosecutor for the State.

The learned Advocate for the appellants seeks

permission to withdraw the application with respect to

appellant no.2 who has been arrested during the pendency of

the appeal.

The appeal with respect to appellant no.2 is

dismissed as withdrawn.

The appellant no.1 and 3 to 5 have challenged the

order dated 08.02.2021 passed by the learned 1st Additional



Sessions Judge-cum-Special Judge, Rohtas at Sasaram in connection with Dinara P. S. Case No.109 of 2020, instituted for the offences under Sections 147, 148, 149, 323, 324, 435 and 506 of the Indian Penal Code, Section 3(1)(r)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 27 of the Arms Act, whereby their prayer for grant of anticipatory bail has been rejected.

The accusation in the F.I.R. is that about 18 accused persons including the appellants participated in the affray while the informant was going ahead with the construction of a cowshed.

The learned Advocate for the appellants has submitted that there is a dispute between the parties with respect to passage of land and at the time of construction of the cowshed by the informant and his associates, there was a verbal scuffle which ultimately galvanized in a fight between the two parties.

There is a counter-version of the occurrence also lodged by Om Prakash Mishra (appellant no.2) whose case has been withdrawn because of his having arrested. Though there are injuries on the person of the victims but those are



not grievous and those are also not in consonance with the ocular testimony.

Regard being had to the afore-stated facts, it has been urged that the offence under the SC/ST (P.O.A.) Act would not appear to have been made out, the order dated 08.02.2021, referred to above, is set-aside.

The appeal stands allowed.

The appellant nos.1 and 3 to 5, 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 1st Additional Sessions Judge-cum-Special Judge, Rohtas at Sasaram in connection with Dinara P. S. Case No.109 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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