

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2584 of 2021

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

1. BIJAY SHANKAR MISHRA SON OF RAJ NARAYAN MISHRA Resident of Village- Madhukarpur, Police Station- Dinara, District- Rohtas.
2. Usnes Mishra @ Usles Mishra @ Bhuar Mishra @ Shailesh Mishra Son of Janardan Mishra Resident of Village- Madhukarpur, Police Station- Dinara, District- Rohtas.
3. Shyam Narayan Mishra @ Vikki Mishra Son of Birendra Mishra @ Birendra Nath Mishra Resident of Village- Madhukarpur, Police Station- Dinara, District- Rohtas.
4. Kundan Mishra @ Kundan Kumar Son of Om Prakash Mishra Resident of Village- Madhukarpur, Police Station- Dinara, District- Rohtas.
5. Sanjay Kumar Mishra @ Sanjay Mishra Son of Mathura Mishra Resident of Village- Madhukarpur, Police Station- Dinara, District- Rohtas.
6. Rahul Mishra @ Rahul Kumar Son of Om Prakash 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 : Mr.Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 04-09-2021 Heard learned counsel for the appellants and learned
Spl. P.P. for the State through virtual mode.

Counsel for the appellants is directed to remove the defect(s), as pointed out by the office, within a period of four weeks from the date of restoration of normalcy.

Counsel for the appellants seeks permission to withdraw the present appeal on behalf of appellant Nos.5 and 6, as the



appellant Nos.5 and 6 have been taken into judicial custody.

Permission is accorded.

The appeal filed on behalf of appellant Nos.5 and 6 is dismissed as withdrawn.

The matter relates to grant of anticipatory bail to the appellant Nos.1 to 4 in connection with a case registered for the offences under Sections 147, 148, 149, 323, 324, 435, 506 of the Indian Penal Code and Sections 3(1)(r)(s) of the SC/ST (Prevention of Atrocities) Act, 1989 and Section 27 of the Arms Act.

The prosecution case, in short, is that on 05.05.2020, the informant was constructing cow-shed ahead to his house, the accused persons including the appellant Nos.1 to 4 having lathi, danda, rami, knife, gun and country made pistol in their hands came there and started abusing him by taking his caste name and some of them started to demolish the wall and some of them set fire in cow-shed of the informant and the accused persons assaulted the informant and his family members, due to which they sustained injuries.

It has been submitted on behalf of the appellant Nos.1 to 4 that there is no allegation of tampering of witnesses alleged against the appellant Nos.1 to 4. The appellant Nos.1 to



4 have falsely been implicated in the present case. It is a case and counter case between the parties. Annexure 2 is the counter case. The nature of injury is said to be simple. There is petty dispute regarding passage. Vide Annexure 1 series of supplementary affidavit, co-accused have been granted anticipatory bail by a Co-ordinate Bench of this Court. The alleged occurrence has not taken place within public view. Hence no offence under the SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant Nos.1 to 4 are named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 08.02.2021, passed by the learned Additional Sessions Judge, Rohtas at Sasaram vide Regd. No.91 of 2020 (A.B.P.) in connection with Dinara P.S. case No.109 of 2020, is set aside with regard to appellant Nos.1 to 4. The criminal appeal is allowed in part.

Let the appellant Nos.1 to 4, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bond to the satisfaction of learned Additional Sessions Judge, Rohtas at Sasaram in



connection with Dinara P.S. case No.109 of 2020.

Once the normalcy is restored, the appellant Nos.1 to 4 will furnish bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

Narendra/-

U		T	
---	--	---	--

