

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2637 of 2021

Arising Out of PS. Case No.-26 Year-2020 Thana- SC/ST District- Gopalganj

1. IRFAN MIYA @ IRFAN ALI Son of Ajmullah Miya Resident of Village - Bigahi Bairisal, P.S. - Mirganj, District - Gopalganj.
2. MANU MIYA @ MANU ALAM @ NESAR ALI Son of Saimullah Miya Resident of Village - Bigahi Bairisal, P.S. - Mirganj, District - Gopalganj.
3. IDU MIYAN Son of Mustkim Miya Resident of Village - Bigahi Bairisal, P.S. - Mirganj, District - Gopalganj.
4. SANAULLAH MIYA @ SAINULLAH MIYA Son of Ramzan miya Resident of Village - Bigahi Bairisal, P.S. - Mirganj, District - Gopalganj.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Javed Aslam

For the Respondent/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

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

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

The matter relates to grant of anticipatory bail to the appellants in connection with SC/ST P.S. Gopalganj Case No. 26 of 2020 registered for the offences under Sections 341, 323, 504, 506, 354(B)/34 of the Indian Penal Code and Sections 3(1)(r)(s)/3(2) of the SC/ST Act.



Allegedly, the accused persons having armed with iron rod and sword, came at the door of the informant and started abusing the informant by caste name. It is also alleged that the accused persons tried to outrage her modesty.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. The alleged occurrence is said to have taken place on 20-08-2020 whereas the case has been instituted after a delay of one month i.e. on 19-09-2020. The delay in instituting the FIR has not been explained by the prosecution. General and omnibus allegation has been made against the appellants. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellants are named in the Complaint Case/F.I.R.

In view of the aforesaid facts and circumstances, the order dated 17-03-2021 passed by learned Additional District & Sessions Judge-Ist-cum-Special Judge, SC/ST Act, Gopalganj in SC/ST P.S. Gopalganj Case No. 26 of 2020 is set aside. The



present Criminal Appeal is *allowed*.

Let the appellants, above named, in the event of arrest/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 District & Sessions Judge-Ist-cum-Special Judge, SC/ST Act, Gopalganj in SC/ST P.S. Gopalganj Case No. 26 of 2020.

Once the normalcy is restored, the appellants shall 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)

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