

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2691 of 2021

Arising Out of PS. Case No.-47 Year-2020 Thana- SC/ST District- Rohtas

1. Baij Nath Nonia @ Baijnath Choudhary, aged about 32 years, Gender-Male, Son of Bhikhar Choudhary, Resident of Village- Gangahar, P.S.- Nokha, District- Rohtas at Sasaram.
2. Gariba Nonia @ Gariba Choudhary, aged about 40 years, Gender-Male, Son of Dasharath Nonia @ Dasharath Choudhary, Resident of Village- Gangahar, P.S.- Nokha, District- Rohtas at Sasaram.
3. Kamlesh Noniya @ Kamlesh Choudhary, aged about 37 years, Gender-Male, Son of Rajeshwar Choudhary, Resident of Village- Gangahar, P.S.- Nokha, District- Rohtas at Sasaram.
4. Upendra Noniya @ Upendra Kumar @ Upendra Choudhary, aged about 24 years, Gender-Male, Son of Gariba Noniya @ Gariba Choudhary, (Appellant No.2), Resident of Village- Gangahar, P.S.- Nokha, District- Rohtas at Sasaram.
5. Chandan Noniya @ Chandan Choudhary, aged about 32 years, Gender-Male, Son of Chandradip Choudhary, Resident of Village- Gangahar, P.S.- Nokha, District- Rohtas at Sasaram.
6. Yogesh Noniya @ Yogesh Choudhary, aged about 18 years, Gender-Male, Son of Gariba Nonia @ Gariba Choudhary (Appellant No.2), Resident of Village- Gangahar, P.S.- Nokha, District- Rohtas at Sasaram.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants : Mr.Babu Nandan Prasad, Advocate.
For the Respondent : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

2 16-09-2021 Heard learned counsel for the appellants and learned
Special P.P. for the State through Virtual mode.

Learned counsel for the appellants submits that the limitation, as pointed out by the office, be condoned in the light of the order dated 08.03.2021, passed by the Hon'ble Apex Court, in Suo Motu Writ Petition (Civil) No. 03 of 2020.

Considering the submissions made on behalf of learned counsel for the appellants, the limitation, as pointed out



by the office, is condoned.

Learned counsel for the appellants is directed to remove the defects, as pointed out by the office, within a period of four weeks, except defect no. 6(3) i.e., limitation petition.

Learned counsel for the appellants seeks permission to withdraw the present criminal appeal filed on behalf of appellant no. 2, namely, Gariba Nonia @ Gariba Choudhary, as he has been taken into judicial custody in Registered Case No. 132 of 2020, arising out of SC/ST Dehri P.S. Case No. 47 of 2020, pending in the court of learned Ist Additional Sessions Judge-cum-Special Judge, Rohtas at Sasaram.

Permission is accorded.

Accordingly, the present criminal appeal filed on behalf of appellant no. 2, namely, Gariba Nonia @ Gariba Choudhary, is dismissed as withdrawn.

Now, the appellant nos. 1, 3, 4, 5 and 6 have challenged the order dated 05.02.2021, passed by learned Ist Additional Sessions Judge-cum-Special Judge, Rohtas at Sasaram in connection with Registered Case No. 132 of 2020, arising out of SC/ST Dehri P.S. Case No. 47 of 2020, registered for the offences under Sections 341, 323, 448, 504, 506/34 of the I.P.C. and Sections 3(1)(r)(s) of the SC/ST Act, whereby the



prayer made on behalf of the appellant nos. 1, 3, 4, 5 and 6 for grant of anticipatory bail has been rejected.

The prosecution case, in short, is that the appellants and other accused caused injury to the informant, his wife and his son and also abused them by calling his caste name on the point of *Corona* happened to the son of the informant who was walking in his village.

It has been submitted on behalf of the appellant nos. 1, 3, 4, 5 and 6 that they have got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against them. They have falsely been implicated in the present case. General and omnibus allegation has been made against them. No specific overt act is alleged against them. No grievous injury is said to have been caused in course of occurrence. Altogether 15 persons including the appellants have been named in the F.I.R. The alleged occurrence has not taken place within public view. Hence, no offence under SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant nos. 1, 3, 4, 5 and 6 are named in the F.I.R.

Considering the aforesaid facts and circumstances, this Court is inclined to set aside the order dated 05.02.2021,



passed by learned Ist Additional Sessions Judge-cum-Special Judge, Rohtas at Sasaram, only in respect of appellant nos. 1, 3, 4, 5 and 6 in connection with Registered Case No. 132 of 2020, arising out of SC/ST Dehri P.S. Case No. 47 of 2020 by which the anticipatory bail of the appellant nos. 1, 3, 4, 5 and 6 was rejected.

Let the appellant nos. 1, 3, 4, 5 and 6 above named, (except appellant no. 2, namely, Gariba Nonia @ Gariba Choudhary) 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 furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of learned Ist Additional Sessions Judge-cum-Special Judge, Rohtas at Sasaram, in connection with Registered Case No. 132 of 2020, arising out of SC/ST Dehri P.S. Case No. 47 of 2020.

The appeal stands allowed only in respect of appellant nos. 1, 3, 4, 5 and 6 above named.

(Sudhir Singh, J)

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