

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3051 of 2021**

Arising Out of PS. Case No.-54 Year-2020 Thana- NATWAR District- Rohtas

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1. PASPAT @ PASPAT TIWARI @ PASHUPATI NATH TIWARI Son of Late Kedar Tiwari @ Kedar Nath Tiwari Resident of Village- Niyajipur, P.S.- Natwar, District- Rohtas, Bihar (802218)
 2. GOLU @ GOLU TIWARI @ GOLU KUMAR TIWARI Son of Shri Paspas Tiwari @ Pashupati Nath Tiwari Resident of Village- Niyajipur, P.S.- Natwar, District- Rohtas, Bihar (802218)

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Ms.Aaruni Singh
For the Respondent/s : Mr.Binay Krishna, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2 10-08-2021 This matter is taken up for consideration through
Video Conferencing.

IA No. 1 of 2021

Interlocutory application No. 1 of 2021 has been filed on behalf of appellants for condonation of delay of 07 days in preferring the instant appeal.

In view of the reasons assigned, the delay is hereby condoned. Accordingly, IA No. 1 of 2021 is allowed.

Heard learned counsel for the appellants and the State.

The present memo of appeal has been filed on behalf of the appellants for grant of bail against the order dated 18.03.2021 passed by learned Ist Additional Sessions Judge-



cum-Special Judge, Rohtas at Sasaram in connection with Natwar P.S. Case No. 54 of 2020 under Sections 341, 323, 325, 354B, 504, 506/34 of the Indian Penal Code and section 3(1)(r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for bail of the appellants was rejected.

Prosecution case in brief is that informant alongwith her three children and father resides in village-Niyajipur, District-Rohtas and she has a small Kirana shop. On 13.06.2020 at about 8.00 pm, while the informant was sitting at her shop then co-appellant Niranjana Tiwari came and asked to give her cigarette then informant said that she has no cigarette, on this, he abused her by calling her caste name and with bad intention pushed her down on the ground and torn her blouse. Informant started to cry then her brother and uncle came, thereafter Niranjana Tiwari fled away. Again after sometime, appellants and co-appellant Niranjana Tiwari having armed came at the shop of informant and abused and assaulted with iron rod. Niranjana Tiwari assaulted the brother of informant with iron rod, as a result of which her brother sustained injury on his head. Appellant no. 1 is alleged to have instigated to kill the informant.



It is submitted on behalf of the appellants that specific allegation of assault is against co-appellant Niranjan Tiwari and appellants have been made accused in this case simply because they are relative of co-appellant Niranjan Tiwari. The occurrence is said to have taken place on 13.06.2020, but the FIR was lodged on 16.06.2020 i.e. after delay of three days. No case under SC/ST Act is made out, as the occurrence has not taken place within public view. Appellants are in custody since 28.11.2020. Chargesheet has already been submitted.

Considering the aforesaid facts, this appeal is allowed. The impugned order dated 18.03.2021 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Rohtas at Sasaram, is set aside.

Let the appellants above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Ist Additional Sessions Judge-cum-Special Judge Rohtas at Sasaram in connection with Natwar P.S. Case No. 54 of 2020, subject to following conditions:-

(i) The appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the



Court and in the event of failure on two consecutive dates without sufficient reasons, their bail bond shall be liable to be cancelled by the court below.

(ii) If the appellant tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the appellants.

(Prabhat Kumar Singh, J)

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