

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2924 of 2021

Arising Out of PS. Case No.-239 Year-2021 Thana- DHAKA District- East Champaran

1. ANISUR RAHMAN Son of Sansullah Resident of Village - Bahalolpur, P.S. Dhaka, District - East Champaran.
2. Ataullah Son of Sansullah Resident of Village - Bahalolpur, P.S. Dhaka, District - East Champaran.
3. Naushad Alam Son of Nanjarool Resident of Village - Bahalolpur, P.S. Dhaka, District - East Champaran.
4. Abid Anwar Son of Anisur Rahman Resident of Village - Bahalolpur, P.S. Dhaka, District - East Champaran.
5. Nazir Alam Son of Tahir Hussain Resident of Village - Bahalolpur, P.S. Dhaka, District - East Champaran.
6. Atikur Rahman Son of Nazir Alam Resident of Village - Bahalolpur, P.S. Dhaka, District - East Champaran.
7. Jamaluddin Son of Md. Abdukhair Resident of Village - Bahalolpur, P.S. Dhaka, District - East Champaran.
8. Mohtab Alam @ Mehtab Alam Son of Md. Kamaluddin Resident of Village - Bahalolpur, P.S. Dhaka, District - East Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Abhishek Kumar
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 23-09-2021 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.

At the outset, learned counsel for the appellants seeks



permission to withdraw this appeal with regard to appellant No. 5 namely Nazir Alam as during pendency of this appeal, he has been taken into judicial custody.

Permission is granted.

Accordingly, this appeal with regard to appellant No. 5 namely Nazir Alam is *dismissed as withdrawn*.

Now this order confines to appellant Nos. 1 to 4 & 6 to 8 only.

The appellants have challenged the order dated 14-06-2021 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Motihari, East Champaran in connection with Dhaka P.S. Case No. 239 of 2021 registered for the offences under Sections-147, 149, 341, 323, 354A, 354B, 379, 342, 504, 506 of the Indian Penal Code and Sections-3(i)(r)(s)(za)(A)/3(2)(vi) of SC & ST (Prevention of Atrocities) Act whereby the prayer made on behalf of the appellants for grant of anticipatory bail has been rejected.

Prosecution allegation in short is that while the informant was going to offer Puja with other women, the accused persons taking caste name abused her and started assaulting. The accused persons are said to have tried to outrage her modesty.

It has been submitted on behalf of the appellants that the



appellant Nos. 1 to 4 and 6 to 8 have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against them. They have falsely been implicated in the present case for ulterior motive. There is case and counter case between the parties. Free fight is alleged to have taken place between the parties. 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 appellant Nos. 1 to 4 and 6 to 8 are named in the Complaint Case/F.I.R.

Considering the aforesaid facts and circumstances, this Court is inclined to set aside the order dated 14-06-2021 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Motihari, East Champaran in connection with Dhaka P.S. Case No. 239 of 2021 by which the anticipatory bail of the appellants was rejected with regard to appellant Nos. 1 to 4 and 6 to 8 only.

Accordingly, with regard to appellant Nos. 1 to 4 and 6 to 8 only, the order dated 14-06-2021 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Motihari, East Champaran in connection with Dhaka P.S. Case No. 239 of 2021 is set aside. The present Criminal Appeal is ***allowed*** with regard to appellant Nos. 1 to 4 and 6 to 8 only .



Let the appellant Nos. 1 to 4 and 6 to 8, 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 Ist Additional Sessions Judge-cum-Special Judge, Motihari, East Champaran in Dhaka P.S. Case No. 239 of 2021.

Once the normalcy is restored, the appellant Nos. 1 to 4 and 6 to 8 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)

A.K.V.//-

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

