

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2972 of 2021

Arising Out of PS. Case No.-54 Year-2021 Thana- PALASI District- Araria

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1. MAYANAND SAH Son of Late Gulay Sah Resident of Village- Sohagpur, Ward No.12, P.S.- Plasi, District- Araria (Bihar)
 2. Sundari Devi Wife of Mayanand Sah Resident of Village- Sohagpur, Ward No.12, P.S.- Plasi, District- Araria (Bihar)
 3. Sunil Kumar Sah Son of Mayanand Sah Resident of Village- Sohagpur, Ward No.12, P.S.- Plasi, District- Araria (Bihar)
 4. Suman Kumar Sah @ Suren Kumar Sah Son of Mayanand Sah Resident of Village- Sohagpur, Ward No.12, P.S.- Plasi, District- Araria (Bihar)
 5. Dharendra Kumar Sah @ Birendra Kumar Sah @ Biren Sah Son of Mayanand Sah Resident of Village- Sohagpur, Ward No.12, P.S.- Plasi, District- Araria (Bihar)

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Nishant Kumar Sinha, Adv.
For the Respondent/s : Mr.Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 03-08-2021 Heard the learned counsel for the appellants and

the learned Special P.P. for the State.

The appellants have challenged the order dated
24.06.2021 passed by the learned 1st Additional Sessions
Judge-cum-Special Judge, Araria in Spl. (SC/ST) Case No.
40/2021 arising out of Palasi P.S. Case No. 54/21, whereby
the prayer made on behalf of the appellants for grant of
anticipatory bail for the offences under Sections 147, 148,



149, 341, 323, 324, 353, 504 and 506/34 of the Indian Penal Code and Section 3(1)(r)(s) of SC/ST (POA) Act has been rejected.

The F.I.R. has been lodged by the Officer -in-Charge of the concerned police station alleging that on 19.03.2020 while he was on patrolling duty along with his police party, he received an information that in the house of Dayanand Sah, liquor has been stored for the purpose of sale. On such information, the police party proceeded to the house of aforesaid Dayanand Sah and in front of two independent witnesses, the house was raided. A huge quantity of liquor and other excisable items were recovered. A seizure list was prepared and Dayanand Sah was taken into custody. While the police party were taking aforesaid Dayanand Sah to jail, many accused persons including the appellants, some of whom have been named, arrived and managed to take away aforesaid Dayanand Sah from the custody of the police. The local Chowkidar was also abused by his caste name.

The learned counsel for the appellants has



submitted that because they are related to Dayanand Sah, they have been made accused in this case. In fact, in the raid, no excisable item was recovered except few bottles of juices but a wrong seizure list was being prepared. When this was objected, not only Dayanand Sah but his relatives also have been made accused in this case. There is no specific accusation of any over act against the appellants. The accusation involving the application of the SC/ST (Prevention of Atrocities), Act also appears to be in the nature of a side-wind. The learned counsel for the appellants has, therefore, submitted that the offence under SC/ST Prevention of Atrocities Act, cannot be said to have been made out.

For the reasons afore-stated, the order dated 24.06.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria, is set aside.

The appeal stands allowed.

The appellants, above named, are directed to be released on bail in the event of their arrest or surrender before the court below within a period of eight weeks from



the date of receipt /production of a copy of this order on his
furnishing bail bonds in the sum of Rs. 10,000 (Rs. Ten
Thousand) with two sureties of like amount each to the
satisfaction of learned 1st Additional Sessions Judge-cum-
Special Judge, Araria in connection with Spl. (SC/ST) Case
No. 40/2021 arising out of Palasi P.S. Case No. 54/21.

(Ashutosh Kumar, J)

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