

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1898 of 2020

Arising Out of PS. Case No.-31 Year-2020 Thana- MAHILA P.S. District- Siwan

1. Sumant Tiwari @ Sumant Pati Tiwari Son of Sri Chandra Bhushan Tiwari Resident of Village- Gothi, P.S.- Aandar, District- Siwan.
2. Yashwant Tiwari @ Yashwant Pati Tiwari Son of Sri Chandra Bhushan Tiwari Resident of Village- Gothi, P.S.- Aandar, District- Siwan.
3. Shubham Kumari Daughter of Sri Chandra Bhushan Tiwari Resident of Village- Gothi, P.S.- Aandar, District- Siwan.
4. Mithilesh Tiwari @ Mithilesh Pati Tiwari Son of Kaushal Kishore Pati Tiwari. Resident of Village- Gothi, P.S.- Aandar, District- Siwan.
5. Ratnesh Tiwari @ Ratnesh Kumar Tiwari Son of Kaushal Kishore Pati Tiwari Resident of Village- Gothi, P.S.- Aandar, District- Siwan.
6. Binda Devi Wife of Nawal Kishore Tiwari Resident of Village- Gothi, P.S.- Aandar, District- Siwan.

... .. Appellants

Versus

The State Of Bihar

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Bipin Bihari Singh, Adv.
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 12-03-2021

Heard learned counsel for the appellants and
learned Spl. P.P. for the State.

2. This appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short “the SC/ST Act”) has been preferred by the appellants challenging the order dated 13.07.2020 passed in A.B.P. No. 801 of 2020 in connection with Siwan Mahila P.S. Case No. 31 of 2020 registered for the



offences punishable under Sections 341, 323, 324 and 354-B of the Indian Penal Code and Sections 3(2)(va) of the SC/ST Act by the learned 1st Addl. Sessions Judge-cum-Special Judge, Siwan whereby he has rejected the appellants' prayer for grant of pre-arrest bail.

3. Learned counsel for the appellants submitted that while passing the impugned order, the court below failed to appreciate that the first information report was lodged belatedly after a delay of 49 days. He contended that in absence of any plausible explanation for the inordinate delay caused in filing the FIR, the court below ought to have granted pre-arrest bail to the appellants. He further contended that all the offence alleged against the appellants under the Indian Penal Code are bailable in nature except Section 354-B of the Indian Penal Code, which has been added just to make the offence grave. He next contended that it is beyond the imagination that an unmarried girl and an old lady would participate in disrobing a woman.

4. On the other hand, learned Spl. P.P. for the State submitted that there is allegation that the accused persons quarreled with the informant on the issue of cutting of Sisam tree. They assaulted and disrobed her and also abused her by taking her caste name. He contended that the delay of 49 days



may be due to various reasons but that alone would not entitle the appellants to be granted pre-arrest bail.

5. Having heard the parties and perused the materials on record, since there is an inordinate and unexplained delay of over 45 days in institution of the FIR and the injuries sustained by the informant are all simple, I am inclined to allow the appeal. Accordingly, the impugned order dated 13.07.2020 passed in A.B.P. No. 801 of 2020 by the 1st Addl. Sessions Judge-cum-Special Judge, Siwan is, hereby, set aside.

6. The appellants are directed to be released on bail, in the event of their arrest or surrender, on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Addl. Sessions Judge-cum-Special Judge, Siwan in connection with Siwan Mahila P.S. Case No. 31 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17-03-2021
Transmission Date	17-03-2021

