

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2028 of 2020

Arising Out of PS. Case No.-102 Year-2020 Thana- BHAGWANPUR District- Kaimur
(Bhabua)

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1. Alok Mallah S/o Nandu Mallah Resident of Village-Masahi, P.S.-Bhagwanpur, District-Kaimur
 2. Nandu Mallah S/o Late Bishwanath Mallah Resident of Village-Masahi, P.S.-Bhagwanpur, District-Kaimur
 3. Rajendra Mallah S/o Late Bishwanath Mallah Resident of Village-Masahi, P.S.-Bhagwanpur, District-Kaimur
 4. Amar Mallah S/o Late Shankar Mallah Resident of Village-Masahi, P.S.-Bhagwanpur, District-Kaimur

... .. Appellants

Versus

The State Of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr. Satyendra Pandey, Adv.

For the Respondent/s : Mr. Sadanand Paswan, 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. In the present appeal preferred under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short “the SC/ST Act”), the appellants have challenged the order dated 09.07.2020 passed by the learned Addl. District & Sessions Judge-I-cum-Special Judge, Kaimur at Bhabua in A.B.P. No. 580 of 2020, whereby their prayer for grant of pre-arrest bail in connection with Bhagwanpur P.S. Case No. 102 of 2020 registered for the offences punishable under Section 429 of the Indian Penal Code



and Section 3(1)(r)(s) of the SC/ST Act has been rejected.

3. Learned counsel appearing for the appellants submitted that the allegations made in the first information report do not attract the ingredients of the offence punishable under the SC/ST Act. He contended that so far as Section 429 of the Indian Penal Code is concerned, the same is bailable in nature.

4. On the other hand, learned counsel appearing for the State submitted that from the first information report, it would be evident that on the alleged date and time while the informant was taking his cattle for grazing, he found that the appellants had left naked electrical wire on a land of forest department situated behind his house, as a result of which, a cattle belonging to the informant died and when the informant tried to inquire, the appellants abused him by taking his caste name.

5. In reply, learned counsel appearing for the appellants submitted that all the appellants belong to the same family. In the first information report, there is no mention of abusive word the appellants used against the informant. It is also not mentioned as to who abused the informant. He contended that only an omnibus and vague allegation of use of abusive



word has been levelled in the FIR, which would not be suffice to attract the ingredients of the offence alleged under the SC/ST Act.

6. Having heard the parties and perused the materials on record, I find force in the submissions of the learned counsel for the appellants. Accordingly, the impugned order dated 9.07.2020 passed in A.B.P. No. 580 of 2020 by the learned Addl. District & Sessions Judge-I-cum-Special Judge, Kaimur at Bhabua is, hereby, set aside.

7. 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 Addl. District & Sessions Judge-I-cum-Special Judge, Kaimur at Bhabua in connection with Bhagwanpur P.S. Case No. 102 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The appeal stands allowed.

rohit/-

(Ashwani Kumar Singh, J)

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

