

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2068 of 2020**

Arising Out of PS. Case No.-283 Year-2020 Thana- BETTIAH CITY District- West
Champaran

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1. Guddu Mahto @ Guddu Kumar @ Guddu Kumar Mahto, S/o Raj Kumar Mahto
 2. Vikash Mahto @ Vikahs Kumar, S/o Raj Kumar Mahto,
All are R/o Village- Baswariya, Ward No.30, Daroga Tola, P.S.- Bettiah
(Town), District- West Champaran.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants : Mr. Bimlesh Kumar Pandey, Advocate

For the Respondent : Mr. Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 05-02-2021

Heard learned counsel for the appellants and
learned Special Public Prosecutor for the State.

2. By way of the instant application preferred under
Section 14A(2) of the Scheduled Castes and the Scheduled
Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act'),
the appellants have challenged the order dated 29.08.2020
passed by the learned Additional District and Sessions Judge-1st
-cum-Special Judge, West Champaran at Bettiah in A.B.P.
No.1273 of 2020 whereby he has rejected the prayer for grant of
pre-arrest bail of the appellants in connection with Bettiah
(Town) P.S. Case No.283 of 2020 registered for the offences



punishable under Sections 302 read with 34 of the Indian Penal Code and Section 3(2)(v-a) of the Act.

3. At the outset, learned counsel for the appellants submitted that appellant no.1, Guddu Mahto @ Guddu Kumar @ Guddu Kumar Mahto has already been arrested during the pendency of appeal. Hence, his appeal is dismissed as infructuous.

4. According to the prosecution case, the informant's son left his house on his motorcycle on 11.05.2020 at 10:00 am. At 10:30 am, co-villager Sandip Ram informed him on mobile no. of informant's husband that her son has been assaulted with bamboo stick by the appellants and Jitesh Kumar and two or three unknown accused persons. After receipt of the information, she along with her co-villagers reached at the place of occurrence and saw the appellants, Jitesh Kumar and two or three unknown persons present at the place of occurrence. However, on seeing them, they fled away. After that, she brought her son to Bettiah hospital for better treatment from where he was referred to Muzaffarpur. When she asked her son about the incident, he disclosed that the appellants and others had assaulted him by iron rod and bamboo stick as a result of which, he had sustained grievous injuries. Subsequently, the



injured died at SKMCH, Muzaffarpur.

5. So far as appellant no. 2 Vikash Mahto @ Vikahs Kumar is concerned, he contended that from the allegations made in the FIR, no case under the Act is made out. He further contended that the first information report is based on the statement of the mother of the informant, but the statement of the informant was not recorded while he was undergoing treatment. He further contended that the informant is not an eye witness to the occurrence and, thus, the FIR ought to have been registered by Sandip Ram, who had informed the informant about the incident

6. On the other hand, learned Special Public Prosecutor appearing for the State has submitted that there is no infirmity in the order passed by the court below. He contended that not only the offences alleged are grave, the allegation made against the appellant Vikash Mahto @ Vikahs Kumar is quite serious as he is also alleged to have assaulted the deceased with bamboo stick and iron rod.

7. Having regard to the facts and circumstances of the case, I see no illegality or perversity in the impugned order passed by the court below.

8. Accordingly, the appeal so far as appellant no.2 is



concerned, is dismissed.

9. In case, he surrenders and seeks bail, the same shall be considered on merits without being prejudiced in any manner by this order.

(Ashwani Kumar Singh, J.)

sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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