

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.365 of 2021**

Arising Out of PS. Case No.-145 Year-2020 Thana- BAKHTIYARPUR District- Patna

1. RUDAL RAI @ RUDAL SINGH, aged about 38 years, Gender (Male), S/o Gajadhar Singh, Resident of Village- Teja Bigha, P.S.- Bakhtiyarpur, Distt- Patna.
2. CHABBILA RAI @ CHABBILA SINGH @ RAMACHHAVLLI SINGH, aged about 35 years, Gender (Male), S/o Gajadhar Singh, Resident of Village- Teja Bigha, P.S.- Bakhtiyarpur, Distt- Patna.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants	:	Mr. Ravish Mishra, Advocate.
For the Informant	:	Mr. Raj Krishna Jha, Advocate.
For the Respondent	:	Mrs. Usha Kumari No. 1, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

3 23-08-2021 Heard learned counsel for the appellants, learned counsel for the informant and learned Special P.P. for the State through Virtual mode.

Learned counsel for the appellants is directed to remove the defects, as pointed out by the office, within a period of four weeks from the date of restoration of normalcy.

The matter relates to grant of anticipatory bail to the appellants in connection with Bakhtiyarpur P.S. Case No. 145/2020, registered for the offences under Sections 341, 323, 324, 307/34 of the I.P.C., 27 of the Arms Act and Sections 3(1) (r)/3 (2)(v) of the SC/ST Act.



The prosecution case, in short, is that on 25.05.2020 at about 7.00 A.M., in the morning, the informant alongwith his nephew Ranjit Das and others were sitting on the drain close to his house. In the meantime, the appellants came there and raised protest as to why they have constructed a drain and started abusing them. The informant raised protest and then Rudal Rai @ Rudal Singh (appellant no. 1) fired on his head, creating a hole and he fell down. When his nephew Ranjit Das came to rescue him, Chabbila Rai @ Chabbila Singh @ Ramachhavlli Singh (appellant no. 2) assaulted with Iron rod on his head and leg. On hulla, appellants fled away. The injured were admitted in Bakhtiyarpur Government Hospital and where from they were referred to P.M.C.H., Patna, for better treatment.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against them. It is alleged that the appellant no. 1 is said to have caused firearms injury upon the head of the informant and appellant no. 2 is said to have caused Iron rod injury on the head and the leg of one Ranjit Das. It is further submitted that the appellant no. 2 is a handicapped person and hence the allegation of assault by



him upon Ranjit Das appears to be false. The case has been instituted after two days of the alleged occurrence. The case diary was called for from the learned court below. There is no injury report of the informant or the victim Ranjit Das. A supplementary affidavit has been filed on behalf of the appellants and a counter affidavit has been filed on behalf of the informant. It is further submitted that the alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is attracted in the present case.

On behalf of the State and informant, it is submitted that the appellants are named in the F.I.R. It is further submitted that the appellant no. 1 is said to have fired upon the informant of the present case causing injury on the head. The injury report of the informant which has been brought on record by way of filing a supplementary affidavit on behalf of the appellants shows that there is lacerated wound on the scalp and the Primary Health Centre had referred the informant for his further treatment to the P.M.C.H., Patna. Annexures to the counter affidavit filed on behalf of the informant show that the informant was admitted at P.M.C.H. as he had sustained firearms injury on his head. Hence, the allegation made in the F.I.R. in respect of the appellant no. 1 is supported by the



medical prescriptions brought on the record.

Considering the aforesaid facts and circumstances, the allegations made against the appellant no. 1 Rudal Rai @ Rudal Singh is supported by the medical evidence brought on record, I am not inclined to grant anticipatory bail to appellant no. 1 Rudal Rai @ Rudal Singh. The same is rejected in connection with Bakhtiyarpur P.S. Case No. 145 of 2020, pending in the court of learned Special Judge, SC/ST, Patna.

If the appellant no. 1 Rudal Rai @ Rudal Singh surrenders in the learned court below and prays for regular bail, the same shall be considered by the learned court below on its own merit without being prejudiced by this order of the Court.

Further, the order dated 14.09.2020, passed in A.B.P. No. 4776 of 2020 in connection with Bakhtiyarpur P.S. Case No. 145 of 2020 by learned Special Judge, SC/ST, Patna, is set aside only against appellant no. 2, namely, Chabbila Rai @ Chabbila Singh @ Ramachhavlli Singh. The criminal appeal is allowed only against appellant no. 2, namely, Chabbila Rai @ Chabbila Singh @ Ramachhavlli Singh. The present Criminal Appeal is partly allowed.

Let the appellant no. 2 Chabbila Rai @ Chabbila Singh @ Ramachhavlli Singh, (except appellant no. 1 Rudal Rai



@ Rudal Singh) in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of the learned Special Judge, SC/ST, Patna, in connection with Bakhtiyarpur P.S. Case No. 145/2020.

Once the normalcy is restored, the appellant no. 2 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)

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