

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.403 of 2021

Arising Out of PS. Case No.-140 Year-2020 Thana- CHANPATIA District- West Champaran

1. Aasin Mian, S/o Dukhi Mian, Resident of Village-Pokharia Rai, P.S-Chanpatia, District-West Champaran.
2. Sheikh Abulaish @ Md. Abdulaish, S/o Sheikh Kalil, Resident of Village-Pokharia Rai, Ambedkar Nagar, P.S-Chanpatia, District-West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Arjun Prasad, Advocate
For the Respondent/s : Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 25-02-2021 Heard learned counsel for the appellants and the learned Special P.P. for the State.

The appellants have preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), 1989 against the refusal of their prayer for regular bail, vide order dated 29.08.2020 passed by the learned 1st Additional District & Sessions Judge-cum-Special Judge (SC/ST), Bettiah (West Champaran), in connection with Chanpatiya P.S. Case No.140 of 2020 instituted for the offence under Sections 147, 148, 149, 341, 323, 324, 302, 354, 427, 307, 448, 504, 506 of the I.P.C., Sections 3(i)(r) (s)(w)(i), 3(2)(v)(va) of the SC/ST Act and Sections 27 of the



Arms Act and also for setting aside the aforesaid order dated 29.08.2020.

The F.I.R. alleges that the accused persons, including the appellants, came at the house of the informant, armed with gun, *Farsa*, iron rod, *Bhala* and abused him by caste name. It is alleged that accused Sk. Sabir and Pankaj Chaudhary fired from their guns which hit the arm of Dhodha Ram. Co-accused Sikandar and Laddu assaulted deceased Sunil Ram by means of *Farsa* on his head. Other accused persons misbehaved with the female members.

It is submitted by the appellants' counsel that even as per the prosecution case, specific allegation of assault is attributed to co-accused Sikandar and Laddu. The allegation of misbehaving with the female members of the prosecution party and other similar allegations have only been levelled against the appellants on extraneous consideration. Counsel for the appellants further submits that the provisions of S.C. & S.T. Act have been introduced only to make the charge graver and draw the appellants into the web of prosecution and put them behind bars. It is further submitted that co-accused Sheikh Sabir @ Shekh Sabir, has been allowed bail in Cr.Appeal(SJ) No.78 of 2021, vide order dated 19.02.2021.



Learned Special P.P. has opposed the prayer for bail. It is submitted that the nature of allegations levelled in the F.I.R. do not leave any scope for doubt in the case of the informant. Under such circumstances, it is submitted that the appellant may not be granted the privilege of bail.

Considering the rival submissions, this Court is inclined to allow appellants' prayer for bail.

Accordingly, let the appellants, above named, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional District & Sessions Judge-cum-Special Judge (SC/ST), Bettiah (West Champaran), in connection with Chanpatiya P.S. Case No.140 of 2020.

In the result, the appeal is allowed and the impugned order dated 29.08.2020 is set aside.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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