

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3576 of 2021

Arising Out of PS. Case No.-108 Year-2021 Thana- DARAUNDA District- Siwan

1. PRABHU BHARTI @ PRABHU NATH BHARTI Son of Late Babu Ram Bharti Resident of Village- Sirsaw, P.S.- Daraunda, District- Siwan.
2. Arman Bharti Son of Prabhu Bharti @ Prabhu Nath Bharti Resident of Village- Sirsaw, P.S.- Daraunda, District- Siwan.
3. Dilip Prasad Son of Jaigovind Prasad Resident of Village- Sirsaw, P.S.- Daraunda, District- Siwan.
4. Akash Prasad @ Akoeh Kumar Son of Sabhapati Prasad Resident of Village- Sirsaw, P.S.- Daraunda, District- Siwan.
5. Ritesh Prasad Son of Sabhapathi Prasad Resident of Village- Sirsaw, P.S.- Daraunda, District- Siwan.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Anil Chandra
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 23-09-2021 Heard the learned counsel for the appellants and

the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated

26.07.2021 passed by the learned 1st Additional Sessions

Judge -cum-Special Judge, Siwan in A.B.P. No. 1163 of

2021 arising out of in Daraunda P.S. Case No. 108 of

2021, whereby the prayer made on behalf of the appellants

for grant of anticipatory bail for the offences under Sections

341, 323, 324, 354, 504 and 341 of the Indian Penal Code



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

The accusation against the appellants is of having accosted, assaulted and abused the informant.

The learned counsel for the appellants has submitted that though appellant no. 2 and another are said to have hurled knife blows but the victim has received only one injury, which too has been reported to be simple in nature. There has been a delay in lodging the First Information Report and there is no explanation for such delay. It has further been submitted that from the narration made in the F.I.R. itself, it would appear that the dispute lies somewhere else but only to add serious colour to the case, the provisions of SC/ST (Prevention of Atrocities), Act has been invoked.

For the act of assault having been attributed to appellant no. 2, I am not inclined to interfere with the order refusing to grant anticipatory bail to appellant no. 2.

The appeal with respect to appellant / Arman Bharti is hereby rejected.



However, if he surrenders before the court below and seeks bail, the court below shall take into account all necessary facts including that there has been a delay in lodging of the First Information Report and the injury sustained by the victim is simple in nature and shall passed orders in accordance with law without being prejudiced by the fact that the present appeal on his behalf has not been entertained.

So far as the appellant nos. 1, 3, 4 and 5 are concerned, the learned counsel for the appellants submits that the offence under the SC/ST (Prevention of Atrocities), Act cannot at all be said to have been made out against them.

For the appellant nos. 1, 3, 4 and 5 not being attributed with any specific overt act so far as the assault is concerned, the order dated 26.07.2021 passed by the learned 1st Additional Sessions Judge -cum-Special Judge, Siwan with respect to them, is set aside.

This appeal with respect to appellant nos. 1, 3, 4 and 5 is allowed.



The appellant no. 1/ Prabhu Bharti @ Prabhu Nath Bharti, appellant no. 3 / Dilip Prasad, appellant no. 4 Akash Prasad @ Akoeh Kumar and appellant no. 5 / Ritesh Prasad are directed to be released on bail in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt /production of a copy of this order on his furnishing bail bonds in the sum of Rs. 10,000 (Rs. Ten Thousand) each with two sureties of like amount each to the satisfaction of learned 1st Additional Sessions Judge -cum-Special Judge, Siwan, in connection with Daraunda P.S. Case No. 108 of 2021.

(Ashutosh Kumar, J)

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