

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41108 of 2020

Arising Out of PS. Case No.-195 Year-2020 Thana- KORHA District- Katihar

1. MD. AINUL @ MD.ANUL MIYAN @ MD. ANUL S/o Late Sabir Miyan
Resident of Vill.- Basgarha, P.S.- Korha, District- Katihar.
2. MD AFROZ @ MD KHONU S/o MD JALIL Resident of Vill.- Basgarha,
P.S.- Korha, District- Katihar.
3. MD SUKHRU @ MD SUKHRA S/o Md. Jamil @ Md. Jalil Resident of
Vill.- Basgarha, P.S.- Korha, District- Katihar.
4. MD. ABDUL @ MD. ABDUL NADAB S/o Late Muslim Miyan @ Md.
Muslim Resident of Vill.- Basgarha, P.S.- Korha, District- Katihar.
5. MD. BABLU @ MD. BABLU MIYAN S/o Md. Monajir @ Md. Majir
Resident of Vill.- Basgarha, P.S.- Korha, District- Katihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Anukriti Jaipuriyar
	:	Mr.Anshuman Jaipuriyar
For the Opposite Party/s	:	Mr. Usha Kumari No. 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 02-08-2021 Heard Ms. Anukriti Jaipuriyar, learned counsel

for the petitioners / appellants.

A supplementary affidavit has been filed on

behalf of the petitioners with a prayer for grant of

permission to convert this miscellaneous application into



one under appeal as one of the sections charged against the petitioners / appellants is under the provisions of SC/ST (Prevention of Atrocities), Act.

For the grounds stated in the affidavit, the request of the petitioners / appellants is allowed.

This petition is converted into one under Section 14(A) of the SC/ST (Prevention of Atrocities), Act.

This court has been informed that the special public prosecutor has also been served with the aforesaid affidavit.

Learned counsel for the appellants has further submitted that appellant no. 4/Md. Abdul @ Md. Abdul Nadab has been arrested and has been granted bail by the Court below. His appeal, therefore, has become infructuous.

The application with respect to appellant no. 4/Md. Abdul @ Md. Abdul Nadab is dismissed as having become infructuous.

The appellant nos. 1, 2, 3 and 5 have challenged the order dated 28.08.2020 passed by the



learned Additional Sessions Judge -I-cum-Special Judge, Katihar in Korha P.S. Case No. 195/2020 (G.R. No. 1627/2020), whereby the prayer made on behalf of the appellants for grant of anticipatory bail for the offences under Sections 341, 323, 354, 379, 307, 504, 506 and 34 of the Indian Penal Code and Section 3(r)(s) of SC/ST (POA) Act has been rejected.

The accusation in the First Information Report is of the appellants having demeaned the members of the prosecution party by taking their caste name and also of assaulting such persons. Some personal belongings of the informant and her associates are also said to have been taken away.

Learned counsel for the appellants has submitted that there is a counter version of the occurrence and the parties have been litigating from before. Only in order to save herself from the rigors of a criminal accusation in the counter case, the present case has been lodged. The accusation, on face of it, does not appear to be believable. In the background of enmity between the parties and land



dispute, it has been urged that the accusation under the SC/ST (Prevention of Atrocities), Act has been levelled only for the purposes for adding seriousness to the offence and preventing the appellants from taking advantage of beneficial provisions of Section 438 of the Code of Criminal Procedure.

For the afore-noted arguments, order dated 28.08.2020 passed by the learned Additional Sessions Judge -I-cum-Special Judge, Katihar with respect to appellant nos. 1, 2, 3 and 5 is set aside.

Their appeals are allowed.

The Appellant No. 1/Md. Ainul @ Md.Anul Miyan @ Md. Anul, Appellant No. 2/Md Afroz @ Md Khonu, Appellant No. 3/Md Sukhru @ Md Sukhra And Appellant No. 5/Md. Bablu @ Md. Bablu Miyan 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 Additional Sessions Judge -I-
cum-Special Judge, Katihar in connection with Korha P.S.
Case No. 195/2020 (G.R. No. 1627/2020).

(Ashutosh Kumar, J)

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