

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.71 of 2021

Arising Out of PS. Case No.-110 Year-2020 Thana- NAVINAGAR District- Aurangabad

1. SUBHAM SINGH S/o RAMNIWAS SINGH Resident of Village-Belai, P.S.-Nabinagar, District-Aurangabad (Bihar).
2. RAMNIWAS SINGH S/o LATE RAMANAND SINGH Resident of Village-Belai, P.S.-Nabinagar, District-Aurangabad (Bihar).
3. KAPUR SINGH @ NITISH SINGH S/o GORAKH SINGH Resident of Village-Belai, P.S.-Nabinagar, District-Aurangabad (Bihar).

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Shankar Kumar
For the Respondent/s	:	Ms. Usha Kumari

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 28-10-2021 Heard learned counsel for the appellants.

Learned counsel for the appellants is directed to remove all the defects pointed out by the Stamp Reporter within one month.

This appeal has been preferred on behalf of the appellants under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act for setting aside the order dated 21.09.2020, passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST) Aurangabad in connection with Nabinagar P.S.Case No. 110 of 2020, registered for the offences punishable under Sections



341, 323, 354, 379, 504 and 34 of the Indian Penal Code and Section 3(i)(r)(s)/3(1)(5)/3(1)(w) of SC and ST (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

As per the allegation, the informant was going to her house from market by a tempo. She was carrying a fan in that tempo which was damaged. She went to the house of Nikhil Singh and demanded the said fan, whereupon appellant no.2 hurled some derogatory remarks calling her caste name. On protest, the accused persons assaulted her. The appellant no.1 Subham Singh snatched golden ear-top, nose-pin and cash of Rs.2500/- from her person.

Learned counsel for the appellants has submitted that the FIR itself shows that the informant went to demand her fan. The allegation is there in the FIR that that the appellant no.1 Subham Singh abused her by calling her name and also inflicted derogatory remarks, but there is nothing in the entire FIR which shows that the informant was assaulted merely because she belongs to the Scheduled Caste. As such, the ingredients for attraction of the provisions of the SC/ST Act does not *prima facie* apply to this case.

Considering the facts and circumstances, the appeal is



allowed and the impugned order dated 21.09.2020, passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge(SC/ST), Aurangabad is set aside.

Accordingly, in the event of arrest or surrender within four weeks from today, the appellants, above-named shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/-(ten thousand) each, with two sureties of the like amount each, to the satisfaction of learned 1st Additional District and Sessions Judge-cum-Special Judge(SC/ST), Aurangabad in connection with Nabinagar P.S.Case No.110 of 2020 with the condition that if the trial commences, the appellants will appear on each and every date, unless prevented by unavoidable circumstances.

Office shall ensure that all defects are removed by the appellants within the stipulated time provided in para 2 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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