

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.212 of 2021**

Arising Out of PS. Case No.-287 Year-2019 Thana- ARA MUFFSIL District- Bhojpur

1. SHIYARAM CHAUDHARY Son of Late Baiju Chaudhary Resident of Village- Jagwaliya, P.S.- Ara Muffasil, Distt- Bhojpur
2. Munna Chaudhary Son of Shiyaram Chaudhary Resident of Village- Jagwaliya, P.S.- Ara Muffasil, Distt- Bhojpur.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Ashok Kumar Mishra,Advocate
For the Respondent/s : Mr.Binay Krishan No. 1,Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 26-03-2021 Learned counsel for the appellants undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellants and Mr. Binay Krishan No. 1, learned Spl.P.P. for the State.

The appellants in the present case are seeking setting aside of the order dated 23.09.2020 passed in SC/ST Case No. 188 of 2019 arising out of Muffasil P.S. Case No. 287 of 2019 registered for the offence punishable under Sections 147, 148, 149, 341, 323, 324, 307, 379 of the Indian Penal Code and Sections 3(i)(r)(s)/3(2)(va) of the SC/ST (POA) Act by learned 1st Additional Sessions Judge, Bhojpur, Ara whereby and whereunder the regular bail of the appellants has been rejected.

Learned counsel for the appellants submits that the



appellants are alleged to have involved in abuse and assault to the informant. It is alleged that Siyaram Chaudhary (appellant no. 1) assaulted on the head of the informant by sharp weapon causing injury and Munna Chaudhary (appellant no. 2) is alleged to have snatched money from the pocket of the informant. It is further alleged that appellant no. 2 fired indiscriminately and one of shots hit Pawan Chaudhary who is son of appellant no. 1 and brother of appellant no. 2.

Learned counsel submits that there is case and counter case being Ara Muffasil P.S. Case No. 281 of 2019 has been lodged by appellant no. 1 in which the present informant and others are aggressors and named accused. It is further submitted that during investigation the independent witnesses have made statement in paragraph '29', '30' and '31' of the case diary that Vijendra Paswan had entered in the house of the appellants and fired upon Pawan Chaudhary who is the son of appellant no. 1. Pawan has sustained serious injury. Appellants are in custody since 23.08.2020 and investigation against them is complete.

Learned Spl. P.P. for the State has opposed the prayer for bail of the appellants.

Having regard to the facts and circumstances of the case, wherein it is the submission of learned counsel for the appellants that the present case is a counter case of Sadar Ara P.S. Case No. 281 of 2019 registered on 28.10.2019 by the appellant no. 1 in which



Vijendra Paswan and others are the accused, the present FIR has been lodged as a counter case on 05.11.2019 in respect of the alleged occurrence, however, in course of investigation the independent witnesses have made statement in paragraphs '29', '30' and '31' saying that it was Vijendra Paswan who had entered in the house of the appellants and fired upon the son of the appellant no. 1 Pawan Chaudhary who has suffered injury in the said occurrence as disclosed in Annexure '3' to the present application, these appellants have remained in jail since 23.08.2020, investigation against them is complete and at this stage there is no submission on behalf of the State that release of the appellants is likely to result in tampering with evidence or interfering with the course of trial, let the impugned order be set-aside.

Let the appellants above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Bhojpur, Ara in connection with Muffasil P.S. Case No. 287 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and



(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage it is found that the appellants have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This appeal stands disposed of.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

