

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.229 of 2021**

Arising Out of PS. Case No.-41 Year-2017 Thana- BAIRIYA District- West Champaran

1. MAHADEO MAHTO S/o Late Mohani Mahto Resident of Vill.- Ojhwalaya, P.S.- Bairiya, Distt.- West Champaran.
2. Subhash Kumar @ Subhash Mahto S/o Mahadeo Mahto Resident of Vill.- Ojhwalaya, P.S.- Bairiya, Distt.- West Champaran.
3. Umesh Kumar @ Umesh Mahto S/o Mahadeo Mahto Resident of Vill.- Ojhwalaya, P.S.- Bairiya, Distt.- West Champaran.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjay Kumar No 7, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 16-08-2021 Heard learned counsel for the appellants and learned
Spl. P.P. for the State through virtual mode.

Counsel for the appellants is directed to remove the defect(s), as pointed out by the office, within a period of four weeks from the date of restoration of normalcy.

Learned counsel for the appellants submits that the limitation, as pointed out by the office, be condoned in the light of the order dated 08.03.2021, passed by the Hon'ble Apex Court, in Suo Motu Writ Petition (Civil) No.03 of 2020.

Considering the submissions made on behalf of the learned counsel for the appellants, the limitation, as pointed out by the office, is condoned.



The matter relates to grant of anticipatory bail to the appellants in connection with a case registered for the offences under Sections 341, 323, 379, 504/34 of the Indian Penal Code and Sections 3(i)(x) of the SC/ST (Prevention of Atrocities) Act, 1989.

The prosecution case, in short, is that the accused persons abused the informant by taking his caste name. Co-accused Madan Mahto assaulted the informant with iron rod causing injury on his head. The appellants assaulted the informant by means of fists and slaps.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent and there is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. Specific allegation of assault is alleged against the co-accused Madan Mahto. So far the appellants are concerned, they assaulted the informant with fists and slaps. No grievous injury is said to have been caused by the appellants. The alleged occurrence has not taken place within public view. Hence no offence under the SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellants are named in the F.I.R.



In view of the aforesaid facts and circumstances, the order dated 10.07.2020, passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST/POCSO), Bettiah, West Champaran vide A.B.P. No.656 of 2020 in connection with Bairiya P.S. case No.41 of 2017, is set aside. The criminal appeal is allowed.

Let the appellants, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bond to the satisfaction of learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST/POCSO), Bettiah, West Champaran in connection with Bairiya P.S. case No.41 of 2017.

Once the normalcy is restored, the appellants will furnish bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

Narendra/-

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