

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.422 of 2021**

Arising Out of PS. Case No.-73 Year-2020 Thana- HASANPUR District- Samastipur

1. Dayanand Sah @ Upendra Sah (Male), aged about 50 years, S/o Late Dev Narayan Sah, Resident of Village- Atapur, P.S.- Hasanpur, District- Samastipur.
2. Satya Narayan Sah, (Male), aged about 57 years, S/o Late Dev Narayan Sah, Resident of Village- Atapur, P.S.- Hasanpur, District- Samastipur.
3. Umesh Kumar Sah @ Umesh Sah, (Male), aged about 35 years, S/o Bhatu Sah, Resident of Village- Atapur, P.S.- Hasanpur, District- Samastipur.
4. Manish Kumar @ Manish Sah (Male), aged about 19 years, S/o Daya Nand Sah, Resident of Village- Atapur, P.S.- Hasanpur, District- Samastipur.
5. Raj Kumar @ Raj Kumar Sah (Male), aged about 25 years, S/o Satya Narayan Sah, Resident of Village- Atapur, P.S.- Hasanpur, District- Samastipur.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

**Appearance :**

|                    |   |                                |
|--------------------|---|--------------------------------|
| For the Appellants | : | Mr. Raj Kumar Sinha, Advocate. |
| For the Respondent | : | Mrs. Usha Kumari, Spl. P.P.    |

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**ORAL ORDER**

2      12-04-2021                      Heard learned counsel for the appellants and learned Special P.P. for the State through Virtual mode.

Learned counsel for the appellants is directed to remove the defects, as pointed out by the office, within a period of four weeks.

Learned counsel for the appellants seeks permission to withdraw the present appeal filed for grant of anticipatory bail to the appellant nos. 1 and 2, namely, Dayanand Sah @ Upendra Sah and Satya Narayan Sah, respectively, as they have



already been taken into judicial custody in connection with Hasanpur P.S. Case No. 73 of 2020, pending in the court of learned Ist Additional Sessions Judge-cum-Special Judge, (SC/ST) Act, Samastipur.

Permission is accorded.

Accordingly the present appeal filed for grant of anticipatory bail to appellant nos. 1 and 2, namely, Dayanand Sah @ Upendra Sah and Satya Narayan Sah, respectively, is dismissed as withdrawn.

Now the matter relates to grant of anticipatory bail to the appellant nos. 3, 4 and 5 in connection with Hasanpur P.S. Case No. 73/2020, registered for the offences under Sections 147, 341, 323, 504, 506, 307, 379 of the I.P.C. and 3(1)(r)(s) and 3(2)(va) of the SC/ST Act.

The prosecution case, in short, is that on 06.04.2020, the informant cut the branches of Palm tree and after getting information, all the accused persons alongwith 9 unknown persons surrounded Mukesh Kumar, near the house of co-accused Satya Narayan Sah and assaulted him by legs, fists and slaps and lathi, danda and thereafter co-accused Upendra Sah gave an Iron blow on the head of Mukesh with intention to kill him and his head became injured. Dharam Dev went to save him



and thereafter co-accused Satya Narayan Sah, Dinesh Sah, Rajesh Sah assaulted him by the pieces of bricks. The informant sustained injury on the head, leg and back of the chest, Dharamdev Sah also received injury, Manish Sah (appellant no. 4) took Rs. 500/- from the pocket and co-accused Nitesh Sah took golden Hanumani from the neck of Mukesh Sah and accused persons abused and went away.

It has been submitted on behalf of the appellant nos. 3, 4 and 5 that they have got no criminal antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against them. The main allegation of assault is alleged against co-accused Dayanand Sah @ Upendra Sah. As far as appellant nos. 3, 4 and 5 are concerned, there is no allegation of assault against them. No injury is said to have been caused by them. The alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant nos. 3, 4 and 5 are named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 20.08.2020, passed in A.B.P. No. 966 of 2020 in connection with Hasanpur P.S. Case No. 73/2020 by learned Ist



Additional Sessions Judge-cum-Special Judge, SC/ST Act, Samastipur, is set aside only against appellant nos. 3, 4 and 5. The criminal appeal is allowed with regard to appellant nos. 3, 4 and 5.

Accordingly, the appellant nos. 3, 4 and 5 above named (except appellant nos. 1 and 2, namely, Dayanand Sah @ Upendra Sah and Satya Narayan Sah), in the event of arrest or surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) Only each with two sureties of the like amount each to the satisfaction of the learned Ist Additional Sessions Judge-cum-Special Judge, (SC/ST) Act, Samastipur, in connection with Hasanpur P.S. Case No. 73/2020.

**(Sudhir Singh, J)**

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