

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.544 of 2021

Arising Out of PS. Case No.-99 Year-2017 Thana- KOCHAS District- Rohtas

1. Kalamuddin Ansari @ Kalamuddin, S/O Late Sarfuddin Ansari, aged about 68 years, Male, R/O Village-Parasiya, P.S.-Kochas, District-Rohtas (Sasaram).
2. Jai Sah @ Jai Shankar Sah, S/O Mahabir Sah, aged about 44 years, Male, R/O Village-Parasiya, P.S.-Kochas, District-Rohtas (Sasaram).
3. Eklakh Sheikh @ Akalakh Shekh, S/O Hasim Shekh, aged about 30 years, Male, R/O Village-Parasiya, P.S.-Kochas, District-Rohtas (Sasaram).
4. Jiwati Devi @ Jiuti Devi, W/O Vakil Sah, aged about 67 years, Female, R/O Village-Parasiya, P.S.-Kochas, District-Rohtas (Sasaram).
5. Sudhir Kumar, S/O Bilatan Singh, aged about 22 years, Male, R/O Village-Parasiya, P.S.-Kochas, District-Rohtas (Sasaram).
6. Rameshwar Sah, S/O Loka Sah, aged about 39 years, Male, R/O Village-Parasiya, P.S.-Kochas, District-Rohtas (Sasaram).
7. Shaukat Ansari, S/O Yahiya Ansari, aged about 25 years, Male, R/O Village-Parasiya, P.S.-Kochas, District-Rohtas (Sasaram).
8. Jasamuddin Khalifa, S/O Abdul Hafij Khalifa, aged about 36 years, Male, R/O Village-Parasiya, P.S.-Kochas, District-Rohtas (Sasaram).

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants	:	Mr. Surendra Kumar Choubey, Advocate.
For the Respondent	:	Mr. A.G

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 18-03-2021 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 on behalf of appellant no. 4, namely, Jiwati Devi @ Jiuti Devi, as she has already been taken into judicial custody in Registered Case No. 545/2017, arising out of Kochas P.S. Case No. 99/2017, pending in the court of learned Ist Additional District & Sessions Judge-cum-Special Judge, Rohtas, Sasaram.

Permission is accorded.

Accordingly, the present appeal filed for grant of anticipatory bail on behalf of appellant no. 4 Jiwati Devi @ Jiuti Devi, is dismissed as withdrawn.

Now, the matter only relates to grant of anticipatory bail to the appellant nos. 1, 2, 3, 5, 6, 7 and 8, namely, Kalamuddin Ansari @ Kalamuddin, Jai Sah @ Jai Shankar Sah, Eklakh Sheikh @ Akalakh Shekh, Sudhir Kumar, Rameshwar Sah, Shaukat Ansari and Jasamuddin Khalifa, respectively, in Registered Case No. 545/2017, arising out of Kochas P.S. Case No. 99/2017, registered for the offences under Sections 302/34 of the I.P.C. Later on, Sections 3(2)(V) of SC/ST Act was also added.

The prosecution case, in short, is that on getting information on 28.06.2017 when the informant and others went to the village-Parsiya he saw that two thieves were caught by



the villagers and assaulted them. The injured were taken to the P.H.C., Kochas where one of the thief was declared dead by the doctor. Another thief named as Murahu Musahar and was also brother of that dead person disclosed that villagers of Parsiya Gram brutally assaulted his brother, as a result of which, he died. The doctor has referred to alive thief to Sadar Hospital, Sasaram for better treatment where he also died.

It has been submitted on behalf of the appellant nos. 1, 2, 3, 5, 6, 7 and 8 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. They are not named in the F.I.R. Their names have transpired in the present case, in course of investigation, merely on the basis of suspicion. There is no eye witness to the alleged occurrence. 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. 1, 2, 3, 5, 6, 7 and 8 are not named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 01.12.2020, passed by learned Ist Additional District & Sessions Judge-cum-Special Judge, Rohtas, Sasaram in



Registered Case No. 545/2017, arising out of Kochas P.S. Case No. 99/2017, only in respect of appellant nos. 1, 2, 3, 5, 6, 7 and 8, namely, Kalamuddin Ansari @ Kalamuddin, Jai Sah @ Jai Shankar Sah, Eklakh Sheikh @ Akalakh Shekh, Sudhir Kumar, Rameshwar Sah, Shaukat Ansari and Jasamuddin Khalifa, respectively, is set aside. The criminal appeal is allowed only in respect of appellant nos. 1, 2, 3, 5, 6, 7 and 8, namely, Kalamuddin Ansari @ Kalamuddin, Jai Sah @ Jai Shankar Sah, Eklakh Sheikh @ Akalakh Shekh, Sudhir Kumar, Rameshwar Sah, Shaukat Ansari and Jasamuddin Khalifa, respectively.

Accordingly, the appellant nos. 1, 2, 3, 5, 6, 7 and 8, namely, Kalamuddin Ansari @ Kalamuddin, Jai Sah @ Jai Shankar Sah, Eklakh Sheikh @ Akalakh Shekh, Sudhir Kumar, Rameshwar Sah, Shaukat Ansari and Jasamuddin Khalifa, respectively, (except the appellant no. 4 Jiwati Devi @ Jiuti Devi), 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 District & Sessions Judge-cum-Special Judge, Rohtas, Sasaram in Registered Case No. 545/2017, arising out of Kochas P.S.



Case No. 99/2017.

(Sudhir Singh, J)

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