

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.715 of 2021

Arising Out of PS. Case No.-238 Year-2020 Thana- MANJHI District- Saran

1. SHEKH SADAM @ SADAB ANSARI Son of Shekh Azad Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
2. Irshad Ansari Son of Jamalu Ansari Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
3. Shekh Farooq @ Chedi @ Farooq Ansari Son of Alam Ansari Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
4. Wasir Ansari @ Wazir Ansari Son of Saheb Hussain Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
5. Nazir Ansari @ Nasir Ansari Son of Saheb Hussain Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
6. Salma Khatun Wife of Saheb Hussain Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
7. Shekh Afsar Ali Son of Late Shekh Alauddin Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
8. Shekh Munna Babu Son of Shekh Shakir Hussain Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
9. Jaidullah Khan Son of Safiullah Khan Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
10. Md Kaif Son of Shekh Kabir Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
11. Shekh Sikander Son of Shekh Kamrul Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
12. Ali Ahamad Son of Late Gul Mohammad Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
13. Afroj Ansari Son of Tayab Hussain Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.
14. Tamjeed Ansari Son of Late Gul Mohammad Resident of Village- Katokhar, P.S. - Manjhi, District - Saran at Chapra.

... .. Appellant/s

Versus

THE STATE OF BIHAR Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Saroj Kumar Sharma, Advocate
For the Respondent/s : Ms. Usha Kumari-I, Spl. PP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 23-09-2021 Heard Mr. Saroj Kumar Sharma, learned



counsel for the appellants and Ms. Usha Kumari-I,
learned Spl. PP for the State.

The appellants have challenged the order dated 04.11.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in A.B.P. No. 2579 of 2020 arising out of Manjhi P.S. Case No. 238 of 2020, whereby the prayer made on behalf of the appellants for grant of pre-arrest bail for the offences under Sections 147, 148, 323, 307, 376 and 511 of the Indian Penal Code and Sections 3(r)(s) of the SC/ST (Prevention of Atrocities) Act has been rejected.

The accusation in the FIR is that when two of the accused persons viz. Raja Ansari and Sahil Ansari tried to show obscene video clips to the daughter of the informant, she protested. When she was attempted to be raped, people from the neighbourhood arrived and as a result of that, the accused persons ran away. Shortly thereafter, it has been alleged that the aforesaid two



accused persons along with their friends, approximating 100 in number, out of whom 62 persons have been named, attacked the members of the prosecution party, especially the family members of the informant.

The appellants have been named in the FIR out of several others, but no specific overt act has been attributed against them. The specific act of assault and exhortation, apart from Raja Ansari and Sahil Ansari, is on Taufiq, Ashraf, Tamjeed (appellant no. 14), Mansur, Jaidullah Khan (appellant no. 9), Saifullah, Sarfaraj, Shekh Nagar and Husnain. So far the other appellants are concerned, there is absolutely no accusation against them.

It has been submitted on behalf of the appellants that because they happen to be the members of one particular religious community, they too have been named in this case but without any specific overt act.

Shortly before the lodging of the subject FIR,



on the statement of one Salma Khatoon, several persons of the other community were made accused in Manjhi P.S. Case No. 237 of 2020. It is because of the aforesaid prosecution that the present case has been lodged against most of the members of one particular community.

The injuries suffered by the victims are stated to be simple in nature. There is no offence with respect to Section 376 of the IPC.

Considering the fact that two of the accused persons *viz.* appellants no. 9 and 14 have been attributed with specific overt act, their prayer for grant of anticipatory bail is rejected

Their appeals are dismissed.

Should they surrender before the court below and seek bail, their applications shall be considered on its own merits, without being prejudiced by the fact that the present petition on their behalf has not been entertained.



The learned counsel for the appellants no. 1 to 8, 10 to 13 and 15 has submitted that the offences under the SC/ST (Prevention of Atrocities) Act cannot be said to have been made out against them.

The appeal with respect to them stands allowed.

On the appellants no. 1 to 8, 10 to 13 and 15 surrendering before the court below within a period of eight weeks, they shall be released on bail on their furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in A.B.P. No. 2579 of 2020 arising out of Manjhi P.S. Case No. 238 of 2020.

The appeal stands disposed off accordingly.

(Ashutosh Kumar, J)

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