

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.747 of 2021**

Arising Out of PS. Case No.-576 Year-2020 Thana- MUFFASIL District- West Champaran

1. SHAMBHU MAHTO, S/o Bhola Mahto R/o village- Dhanwatiya, P.S.- Yogapatti, District- West Champaran
2. Madhav Mahto S/o Bhola Mahto R/o village- Dhanwatiya, P.S.- Yogapatti, District- West Champaran
3. Chhathu Mahto S/o Bhola Mahto R/o village- Dhanwatiya, P.S.- Yogapatti, District- West Champaran
4. Chunnu Kumar S/o Chhathu Mahto R/o village- Dhanwatiya, P.S.- Yogapatti, District- West Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Brij Kishor Mishra

For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER**

2 30-06-2021 Heard Mr. Vashishtha Narayan Mishra, learned Advocate for the appellants and Ms. Usha Kumari, learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 02.11.2020, passed by the learned 1st Additional District and Sessions Judge cum Special Judge (SC/ST), Bettiah, District – West Champaran, in A.B.P. No. 1919 of 2020, arising out of Bettiah Muffasil Manuapool P. S. Case No. 576 of 2020, whereby the prayer made on behalf of the



appellants for grant of anticipatory bail for the offences punishable under Sections 341, 323, 324, 504, 506 and 34 of the Indian Penal Code and Section 3 (I) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

The appellants are stated to have assaulted and abused the informant and others. There is specific accusation against the appellant no. 1 of having given a *lathi* blow on the head of the informant.

Mr. Mishra, learned counsel for the appellants has submitted that he does not have the injury report of the victim. However, he submits that so far as appellant nos. 2, 3 and 4 are concerned, the accusation against them are general and omnibus in nature and that also of assaulting the informant by fists and slaps and abuse him.

It has also been argued on behalf of the appellants that the present case is in retaliation to Yogapatti P. S. Case No. 366 of 2020 filed by one



Nibha Devi who is wife of one of the accused persons of this case.

The addition of the charge of abusing and trying to demean the members of the prosecution side because of their descent, is only for the purposes of giving a serious colour to this case.

However, for the accusation of assaulting the informant by means of *lathi* by appellant no. 1, I am not inclined to grant anticipatory bail to him.

The prayer for anticipatory bail of appellant no. 1 is rejected.

If appellant no. 1 surrenders before the court below and seek bail, in that event the court below shall look into the matter and pass orders in accordance with law, without being prejudiced by the fact that the present appeal on his behalf has not been entertained by this Court.

The appellant nos. 2, 3 and 4 are not alleged to have done anything in particular.



It has been urged on their behalf that no such occurrence took place as has been narrated in the F.I.R. The charge of abusing the informant is also groundless and is motivated.

For the afore-stated reasons, the order dated 01.11.2020, passed by the learned 1st Additional District and Sessions Judge cum Special Judge (SC/ST), Bettiah, District – West Champaran, with respect to appellant nos. 2, 3 and 4, is set aside.

The appeal on their behalf is allowed.

The appellant nos. 2, 3 and 4 are directed to be released on bail, in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, 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 District and Sessions Judge cum Special Judge (SC/ST), Bettiah, District – West Champaran, in



connection with Bettiah Muffasil Manuapool P. S. Case
No. 576 of 2020, subject to the conditions as laid down
under Section 438 (2) Cr.P.C.

The appeal stands disposed off accordingly.

(Ashutosh Kumar, J)

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