

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.914 of 2021**

Arising Out of PS. Case No.-18 Year-2020 Thana- SC/ST District- Bhagalpur

1. YOGENDRA YADAV Son of Late Yamun Yadav @ Jamun Yadav Resident of Village - Kiranpur, P.S. - Shahkund, District - Bhagalpur.
2. Rajendra Yadav Son of Late Yamun yadav @ Jamun Yadav Resident of Village - Kiranpur, P.S. - Shahkund, District - Bhagalpur.
3. Kare Yadav Son of Late Yamun Yadav @ Jamun Yadav Resident of Village - Kiranpur, P.S. - Shahkund, District - Bhagalpur.
4. Manoj Yadav Son of Rajendra Yadav Resident of Village - Kiranpur, P.S. - Shahkund, District - Bhagalpur.
5. Bhavesh Yadav @ Bhavesh Kumar Yadav Son of Rajendra Yadav Resident of Village - Kiranpur, P.S. - Shahkund, District - Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dhananjay Kumar Pandey
For the Respondent/s : Mr.A.G

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 12-07-2021 Heard learned counsel for the appellants and the

State through virtual mode.

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

A supplementary affidavit has been filed on behalf of the appellants. Let the same be kept on record.

At the outset, learned counsel for the appellants seeks permission to withdraw this appeal with regard to the appellant



Nos. 1, 2 & 4 as during pendency of this appeal, the aforesaid three appellants have been taken into custody and hence, this appeal with regard to appellant Nos. 1, 2 & 4 has become infructuous.

Permission is granted.

Accordingly, this appeal with regard to appellant Nos. 1, 2 & 4 is dismissed as withdrawn.

The matter relates to grant of anticipatory bail to the appellant Nos. 3 & 5 in connection with Bhagalpur SC/ST P.S. Case No. 18 of 2020 registered for the offences under Sections 341, 323, 427, 504/34 of the Indian Penal Code and Sections 3(i)(r)(s) of the SC/ST Act.

Allegedly, while the informant's wife drove away the goats from her paddy field, the accused persons having taken her caste name, started hurling filthy language. Hearing noise, the informant went to his wife and asked accused persons as to why they caused loss by grazing their goats. On that, the accused persons are said to have attacked on the informant from Lathi, Danda and rod due to which, he sustained head injury. While other members of the informant came to rescue the informant, they were also assaulted.

It has been submitted on behalf of the appellant Nos. 3 & 5



that they have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against them. They have falsely been implicated in the present case. General and omnibus allegation has been made against them. No specific overt act is alleged against them. The case has been instituted after 5 days of the alleged occurrence. The delay in instituting the case has not been explained by the prosecution. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant Nos. 3 & 5 are named in the Complaint Case/F.I.R.

In view of the aforesaid facts and circumstances, the order dated 21-10-2020 passed by learned Additional Sessions Judge-III-cum-Special Judge, SC/ST Act, Bhagalpur in Bhagalpur SC/ST P.S. Case No. 18 of 2020 is set aside in respect of appellant Nos. 3 & 5 only. The present Criminal Appeal is ***allowed*** in respect of appellant Nos. 3 & 5 only.

Let the appellant Nos. 3 & 5, above named, in the event of arrest/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



Additional Sessions Judge-III-cum-Special Judge, SC/ST Act,
Bhagalpur in connection with Bhagalpur SC/ST P.S. Case No.
18 of 2020.

Once the normalcy is restored, the appellant Nos. 3 &
5 shall 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)

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