

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 1468 of 2021**

Arising Out of PS Case No.-114 Year-2020 Thana- SANHAULA District- Bhagalpur

1. Biru Kumar @ Biru Matho, aged about 21 years, Male.
2. Suendar Mahto @ Surendra Mahto, aged about 35 years, Male.
3. Ranjeet Mahto, aged about 45 years, Male.
4. Mukesh Kumar @ Mukesh Mahto, aged about 22 years, Male.
5. Bhawesh Mahto, aged about 30 years, Male.

All are sons Of Dudhnath Mahto.

6. Dudhnath Mahto, aged about 70 years, Son of Late Yaddu Mandal.

All are resident of Village - Maheshpur, PS- Sanhoulla, District- Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ranjan Kumar Jha, Advocate
For the State	:	Mr. Binay Krishna, Special PP.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 17-06-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the appellants on 15.06.2021, which was allowed.

3. Heard Mr. Ranjan Kumar Jha, learned counsel for the appellants and Mr. Binay Krishna, learned Special Public



Prosecutor (hereinafter referred to as the 'Special PP') for the State.

4. The present appeal is directed against the order dated 07.10.2020 passed by the learned Additional District and Sessions Judge-III-cum Special Judge (SC/ST Act), Bhagalpur in Anticipatory Bail Petition No. 1436 of 2020, by which prayer for anticipatory bail of the appellants has been rejected.

5. The appellants apprehend arrest in connection with Sanhaua PS Case No. 114 of 2020 dated 01.08.2020, instituted under Sections 341, 323, 324, 379, 354, 504, 506/34 of the Indian Penal Code and 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'SC/ST Act').

6. The allegation against the appellants is that when the informant at 3:00 PM on 31.07.2020 was constructing a hut on her land, for opening a shop, the appellants had come and due to land dispute had abused her and also assaulted her and thereafter some other accused also came and they started demolishing the hut which was objected by the family members of the informant and then they were also assaulted leading to injuries. It is also alleged that the accused looted articles of the informant including vegetables and they also threatened to kill.



7. Learned counsel for the appellants submitted that the informant side taking undue advantage of they being members of the Scheduled Caste, have lodged this false case only to exert pressure on the appellants for allowing them to build a hut on the land belonging to the appellants. It was submitted that for the same incident, the appellants' side had instituted Sanhoulla PS Case No. 113 of 2020, earlier in time, and there has been serious injuries caused on the side of the appellants. By way of example, learned counsel drew the attention of the Court to photographs of injury suffered by appellants no. 1 and 6, which shows deep wound on their head. It was submitted that on the side of the informant, there is no injury. Learned counsel submitted that the appellants have no criminal antecedent. It was submitted that even otherwise, since there is no allegation that any overt act was done in public view or in the presence of the public, no offence is made out under the SC/ST Act. Learned counsel submitted that the parties have also compromised the matter and a formal compromise petition has been filed in the Court below in January, 2021. It was submitted that though copy of the compromise petition is available with learned counsel, but due to inadvertence could not be brought on record. However, learned counsel read out



the contents in which it has been stated that the parties have compromised the matter and do not want to pursue the case.

8. Learned APP submitted that there is allegation of assault against the appellants.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the appellants be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge III-cum Special Judge (SC/ST Act) Bhagalpur in Sanhaua PS Case No. 114 of 2020 subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 (i) that one of the bailors shall be a close relative of the appellants, (ii) that the appellants and the bailors shall execute bond and give undertaking with regard to good behaviour of the appellants and (iii) that the appellants shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of their bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the appellants, to



the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellants.

11. Accordingly, the order impugned is set aside and the appeal stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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