

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1400 of 2021**

Arising Out of PS. Case No.-11 Year-2020 Thana- SC/ST District- Jehanabad

1. UMESH CHANDRA BARUN SON OF LATE PAHALDI RAM Resident of Village - Purainia, P.S.- Kinjar, Distt.- Arwal.
2. MUKESH KUMAR SON OF UMESH CHANDRA BARUN Resident of Village - Purainia, P.S.- Kinjar, Distt.- Arwal.
3. LAVKUSH KUMAR SON OF UMESH CHANDRA BARUN Resident of Village - Purainia, P.S.- Kinjar, Distt.- Arwal.
4. ANAMIKA KUMARI D/O UMESH CHANDRA BARUN Resident of Village - Purainia, P.S.- Kinjar, Distt.- Arwal.
5. RAJKUMARI DEVI @ RAMKUMARI DEVI W/O UMESH CHANDRA BARUN Resident of Village - Purainia, P.S.- Kinjar, Distt.- Arwal.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mrs. Vaishnavi Singh
For the Respondent/s : Mrs. Usha Kumari No. 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 06-08-2021 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 after restoration of normalcy.

The appellants have challenged the order dated 19.10.2020 passed by learned 1st Additional Sessions Judge -cum- Special Judge, Jehanabad in ABP No. 742 of 2020 in connection with SC & ST P.S. Case No. 11 of 2020 registered for the offences under sections 147, 148, 149, 341, 323, 325, 354, 504 and 506 of the



Indian Penal Code and 3(I)(r)(s)(z) of the SC/ST (Prevention of Atrocities) Act whereby the prayer made on behalf of the appellants for grant of anticipatory bail has been rejected.

Prosecution allegation, in short, is that on trivial issue over digging when the informant made objection, the accused persons assaulted the informant and misbehaved with her. The accused persons also assaulted her husband and abused them by taking caste name.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. General and omnibus allegation has been made against the appellants. No specific overt act is alleged against the appellants. Appellant nos. 4 and 5 are ladies. There is a case and counter case between the parties. A free fight is alleged to have taken place. The injury on the appellants' side has not been explained by the prosecution. The prosecution has not come with clean hands. The injury is said to be simple. The case has been instituted after four days of the alleged occurrence for which delay has not been explained. The alleged occurrence has not taken place within public view. Hence, no offence under SC/ST Act is made out in the present case.

On behalf of the State, it is submitted that the appellants are named in the F.I.R.



Considering the aforesaid facts and circumstances, the order dated 19.10.2020 passed by learned 1st Additional Sessions Judge -cum- Special Judge, Jehanabad in ABP No. 742 of 2020 in connection with SC & ST P.S. Case No. 11 of 2020, is set aside.

The appeal stands allowed.

Let the appellants 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 bonds to the satisfaction of learned 1st Additional Sessions Judge -cum- Special Judge, Jehanabad in connection with SC & ST P.S. Case No. 11 of 2020.

Once the normalcy is restored, the appellants shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) each 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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