

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.787 of 2021

Arising Out of PS. Case No.-144 Year-2020 Thana- AURAI District- Muzaffarpur

1. Deepak Kumar Son Of Sukhdeo Sah Resident Of Village - Naya Gaon, P.S.- Aurai, District - Muzaffarpur.
2. Rajesh Kumar Son Of Sukhdeo Sah Resident Of Village - Naya Gaon, P.S.- Aurai, District - Muzaffarpur.
3. Niraj Kumar Sah @ Neeraj Kumar Son Of Sukhdeo Sah Resident Of Village - Naya Gaon, P.S.- Aurai, District - Muzaffarpur.
4. Dinesh Kumar Sah Son Of Rajendra Sah Resident Of Village - Naya Gaon, P.S.- Aurai, District - Muzaffarpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Neeraj Kumar Alias Sanidh- Advocate
For the Respondent/s : Mr. Sadanand Paswan- S.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 30-06-2021 Heard Mr. Niraj Kumar alias Sanidh, the learned Advocate for the appellants and Mr. Sadanand Paswan, the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 10.11.2020 passed by the learned 3rd Additional Sessions Judge-cum-Special Judge SC/ST Act, Muzaffarpur in connection with Aurai P. S. Case No.144 of 2020, instituted for the offences under Sections 341, 323, 504, 308/ 34 of the Indian Penal Code and Section 3(i)(r)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act,



1989, whereby their prayer for grant of anticipatory bail has been rejected.

It has been alleged in the F.I.R. that all the appellants assaulted the members of the prosecution party, abused them and tried to harm them as much as they could. All the victims suffered injuries at the hands of the appellants.

The learned Advocate for the appellants has submitted that the case does not appear to be correct as the occurrence is said to have been taken place on 24.05.2020, but the report regarding the same was lodged after about one and half months on 07.07.2020. In fact, the mother of the appellant nos.1, 2, 3 had tried to file a case against the informant and others on 25.05.2020, but the appellants were assured that intervention would be made by the local persons and the situation would be made to calm down. On such assurance, no F.I.R. was lodged on behalf of the appellants.

It has further been submitted that an informatory petition was filed by the appellant no.3 regarding the possibility of false implication of the appellants at the hands of the informant and others.



The learned Advocate for the appellants has fairly stated that he does not have any idea about the nature of injuries suffered by the victims but has stated that had there been any grievous injury on the victims, that surely would have been noticed by the Court below while disposing of the anticipatory bail application.

Even otherwise, it has been submitted that in the event of the F.I.R. having been lodged after a delay of one and half months, without there being any explanation for such delay, it may be inferred that there is no grievous injury on any one of the victims.

The accusation of abusing the informant and others by taking their caste name, it is argued, has been resorted to only for the purposes of preventing the appellants from taking the benefit of the provision of anticipatory bail.

Regard being had to the afore-noted circumstances, the order dated 10.11.2020, referred to above, is set aside.

The appeal stands allowed.

The appellants, above named, in the event of their arrest or surrender before the learned Court below within a



period of eight weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 3rd Additional Sessions Judge-cum-Special Judge SC/ST Act, Muzaffarpur in connection with Aurai P. S. Case No.144 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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