

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.826 of 2021**

Arising Out of PS. Case No.-138 Year-2020 Thana- NAANPUR District- Sitamarhi

MD. SHAN @ SHAN SHAH @ MD. SUN, (Male), aged about 35 years, Son of Shabir, Resident of Village- Singhachauri Fakirtakiya, P.S.- Nanpur, Dist.- Sitamarhi.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Pushpendra Kumar Singh, Advocate.
For the Respondent : Mr. A.G

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

2 12-04-2021 Heard learned counsel for the appellant and learned Special P.P. for the State through Virtual mode.

Learned counsel for the appellant is directed to remove the defects, as pointed out by the office, within a period of four weeks.

The matter relates to grant of anticipatory bail to the appellant in connection with Nanpur P.S. Case No. 138 of 2020, registered for the offences under Sections 147, 148, 149, 323, 324, 325, 307, 354, 504, 302 of the I.P.C. and 3(1)(x)(s)(w) (1), 3(ii)(v) of the SC/ST Act.

The prosecution case, in short, is that on 07.05.2020 at about 3.30 P.M., one she-goat was grazing and damaging the crops from the field of the informant Siya Devi @ Sanjah Devi.



She went there and caught the said she-goat and tried to take before the local Mukhiya. In the meantime, accused Md. Shafik Shah @ Bhola came there and abused her and caught of her hair, pushed her down. On hulla, accused Shamshir Shah, Tanveer Shah and Badre Alam came there armed with Lathi, Danda and Fatha. Several persons also reached there, Accused persons Shamsheer Shah, Tanveer Shah and Badre Alam brutally assaulted Bharat Das with Lathi and Fatha with intention to kill him, due to which, he sustained head injuries, became unconscious and fell down. Then other accused persons of other community came there armed with deadly weapons and assaulted the villagers Shiv Dayal Das, Ajay Das, Manju Devi, Ramu Chaupal, Gita Devi, Maharaj Das, Bujhawan Das, Krishna Das, Shiv Kumar Das with Lathi, Danda , rod, Bhala, Garasa and bricks, due to which, they sustained several injuries. The villagers pacified the matters and took the injured persons to P.H.C., Bokhara for treatment. Out of these, injured persons, one Bharat Das was serious and so, the doctor has referred him to D.M.C.H., Darbhanga, from where he was referred to P.M.C.H., Patna, for better treatment.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent. The appellant has



falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against him. The specific allegation is against co-accused, namely, Shamsheer Shah, Tanveer Shah and Badre Alam. As far as appellant is concerned, general and omnibus allegation has been made against him. No specific overt act is alleged against him. The alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is attracted in the present case.

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

In view of the aforesaid facts and circumstances, the order dated 11.09.2020, passed in A.B.P. No. 567 of 2020/85 of 2020 in connection with Nanpur P.S. Case No. 138 of 2020 by learned Ist Additional District & Sessions Judge-cum-Special Judge, (SC/ST), Sitamarhi, is set aside. The criminal appeal is allowed.

Accordingly, the appellant above named, in the event of arrest or surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) Only with two sureties of the like amount each to the satisfaction of the learned Ist Additional District & Sessions



Judge-cum-Special Judge, (SC/ST), Sitamarhi, in connection
with Nanpur P.S. Case No. 138 of 2020.

(Sudhir Singh, J)

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