

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.329 of 2022**

Arising Out of PS. Case No.-287 Year-2021 Thana- KALYANPUR District- East Champaran

1. Vicky Kumar son of Mohar Lal Das.
2. Jitu Das @ Jitendra Das son of Fudani Das. Both are Resident of Village-Harpur, Hardev, Police Station- Kalyanpur, District-East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Faiz Ahmad Faiz, son of Md. Manjural Haque, Resident of Village-Bahlolpur, P. S. Dhaka, District-East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Madhurendra Kumar, Advocate.

For the Respondent/s : Mr. Usha Kumari 1, Spl.PP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 30-06-2022 Learned counsel for the Appellants is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Madhurendra Kumar, learned counsel for the Appellants as well as learned Special Public Prosecutor for the State.

This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 05.01.2022 passed by the learned 3rd Additional Sessions Judge-cum-Special



Judge, SC/ST Act, East Champaran at Motihari in connection with Kalyanpur P. S. Case No. 287 of 2021 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 325, 353, 354, 504, 506, 509, 307, 427, 379, 188, 440, 332 and 171 F of the Indian Penal Code, Section 27 of the Arms Act, Section 3 of the D.P. Act, Section 131, 134 (b), 135, 135(A) of the Representation of the People Act and Sections 3(1) (r) (s) of the SC/ST (Prevention of Atrocities) Act.

As per the prosecution case, it is alleged that the appellants along with several other accused persons attacked on the polling booth and assaulted the Police personnel brutally. It is also alleged that they damaged the E.V.M. and resorted firing.

Learned counsel appearing on behalf of the Appellants submitted that that there is general and omnibus nature of allegation against all the accused persons including the appellants and only because of the fact that the appellants are supporting the other party, their names have been implicated in this case. It is further submitted that there is no allegation against the appellants that they abused the respondent no. 2 by taking his cast name and as such, no offence under SC/ST made out against them. It is also submitted that, in fact, the appellants belong to the scheduled caste and therefore, no case under



SC/ST (Prevention of Atrocities) Act would be made out against them. It is further submitted that all the appellants are in custody since 04.11.2021 and so far the main accused, namely, Priyanka Sinha is concerned, she has already been granted bail by learned co-ordinate Bench of this Hon'ble Court vide order dated 22.03.2022 passed in Cr. Appeal (SJ) no. 218 of 2022.

On the other hand, learned Special Public Prosecutor for the State opposes the appeal and submits that the appellants are named in the F.I.R.

Having considered the submissions made on behalf of the parties and taking into account the fact that there is general and omnibus nature of allegation against all the appellants in as much as the main accused against whom there was specific allegation, she has already been granted bail by learned co-ordinate Bench of this Hon'ble Court and the appellants are in custody since 04.11.2021, let the appellants, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned 3rd Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran at Motihari in connection with Kalyanpur P. S. Case No. 287 of 2021.



In view of the aforesaid facts and circumstances,
the impugned order dated 05.01.2022 is hereby set aside and the
present appeal is allowed.

(Harish Kumar, J)

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