

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.873 of 2022

Arising Out of PS. Case No.-684 Year-2021 Thana- SIKARPUR District- West Champaran

1. UMESH KUSHWAHA @ UMESH PRASAD KUSHWAHA SON OF LATE ASHARFI KUSHWAHA RESIDENT OF VILLAGE KESHARIYA, P.S. SHIKARPUR, DISTRICT- WEST CHAMPARAN
2. NOOR HODA MIYA @ NURUL HODA SON OF RAHMAN MIYA RESIDENT OF VILLAGE KESHARIYA, P.S. SHIKARPUR, DISTRICT- WEST CHAMPARAN
3. BHARAT MAHTO SON OF LATE ROAN MAHTO RESIDENT OF VILLAGE KESHARIYA, P.S. SHIKARPUR, DISTRICT- WEST CHAMPARAN
4. SURYA YADAV SON OF LATE BIPAT YADAV RESIDENT OF VILLAGE KESHARIYA, P.S. SHIKARPUR, DISTRICT- WEST CHAMPARAN
5. RAMJI YADAV SON OF LATE BIPAT YADAV RESIDENT OF VILLAGE KESHARIYA, P.S. SHIKARPUR, DISTRICT- WEST CHAMPARAN
6. MUKUL YADAV SON OF RAMJI YADAV RESIDENT OF VILLAGE KESHARIYA, P.S. SHIKARPUR, DISTRICT- WEST CHAMPARAN
7. DEVI KUSHWAHA @ DEVI MAHTO @ PRAMOD KUMAR SON OF LATE SHITAL MAHTO RESIDENT OF VILLAGE KESHARIYA, P.S. SHIKARPUR, DISTRICT- WEST CHAMPARAN

... .. Appellant/s

Versus

1. The State of Bihar
2. Birjan Ram Late Sahbir Ram R/O Village-Dhobaha, P.S.-Shikarpur, District- West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Umesh Chandra Verma
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

3 31-08-2022 Learned counsel for the appellants is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the appellants, learned



counsel for the informant and learned APP for the State.

This appeal has been preferred on behalf of the appellants under Section 14-A (2) of the SC & ST (Prevention of Atrocities) Act for setting aside the order dated 15.01.2022 in connection with Shikarpur P.S.Case No. 684 of 2021 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307 and 354(B) of the Indian Penal Code and Section 3(i)(r) (s) of SC and ST (Prevention of Atrocities) Act including Section 27 of the Arms Act, whereby the prayer for anticipatory bail of the appellant has been rejected.

When the informant was working in the field of one Vishwanath Ram, the named accused persons including the appellants came there equipped with *lathi*, spear, *farsa* and gun etc. They abused the informant and his family members by calling their caste name. There is specific allegation against appellant no.1 that he assaulted Rampati Devi with spear. Appellant no.7 assaulted Umesh Ram with *farsa* in his leg and appellant no.3 assaulted Karan Ram on his head. Appellant no.5 assaulted the informant with *bhala* in his leg and appellant no.3 again assaulted Sheshnath Ram with spear.

Learned counsel for the appellants has submitted that there is case and counter case for the same day occurrence and



Pramod Kumar (petitioner no.7) lodged Shikarpur P.S. Case No. 685 of 2021 against the members of the prosecution side. That case was also registered under Sections 307, 324 and other allied Sections of the IPC. The members of the defense side have sustained injuries. So far as the present case is concerned, the injuries suffered by the injured persons are simple in nature and the appellants, except appellant no.7 namely Devi Kushwaha @ Devi Mahto @ Pramod Kumar, are persons of clean antecedents. So far as appellant no.7 as aforesaid is concerned, he is accused in Shikarpur P.S. Case No. 376 of 2020, but this case was for trivial issue and he has been granted bail in that case.

On the other hand, learned counsel for the informant has opposed the prayer for anticipatory bail and submitted that by calling the caste name, the provisions of SC/ST Act are not attracted.

It appears that there was free fight between the two groups. The members of both the groups have sustained injuries, as such, it cannot be said that the occurrence has taken place due to malicious feeling of caste. The appellants, except appellant no.7, are the persons of clean antecedent and the injuries suffered by the injured persons are simple in nature.



Considering the facts and circumstances, the appeal is allowed and the impugned order dated 15.01.2022 is set aside. Accordingly, in the event of arrest or surrender within four weeks from today, the appellants, above-named shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/-(ten thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions-cum-Special Judge, SC/ST Act, Bettiah, West Champaran in connection with Shikarpur P.S.Case No. 684 of 2021.

Office shall ensure that all the defects are removed by the appellant within the stipulated time provided hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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