

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.905 of 2022

Arising Out of PS. Case No.-272 Year-2020 Thana- JOKIHAT District- Araria

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1. MD. HASHIM @ M. HASHIM @ HASIM DILAR S/o Late Serajuddin Resident of Village- Kursail, Ward No. -3, P.S.- Mahalgaon (Jokihat), District- Araria.
 2. Md. Abujar @ Md. Md. Abujar @ Abuja r @ Abbujar S/o Late Mojib Resident of Village- Kursail, Ward No. -3, P.S.- Mahalgaon (Jokihat), District- Araria.
 3. Karnel @ Md. Julkarnen Alam @ Md. Julkarnain S/o Sarwar @ Munna @ Sarwar Alam Resident of Village- Uda, Ward No. -05, P.S.- Mahalgaon (Jokihar), District- Araria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sadanand Sah, Present S.H.O. Cum- A.S.I. of Mahalgaon O.P. (Jokihat), District- Araria Araria.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Gopal Kumar Jha
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

2 25-07-2022 Heard learned counsel for the appellants.

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

This appeal has been preferred on behalf of the appellant under Section 14-A (2) of the SC & ST (Prevention of Atrocities) Act for setting aside the order dated 03.02.2022, passed by 1st Additional Sessions Judge cum Special Judge, Araria in connection with Jokihat (Mahalgaon) P.S.Case No.



272 of 2020, registered for the offences punishable under Sections 147, 148, 149, 341, 342, 323, 337, 338, 307, 353, 384, 427, 504, 506, 120(B), 379, 332, 333 of the Penal Code and Section 3(i)(r) of SC and ST (Prevention of Atrocities) Act and Section 3 of the Prevention of Damage to Public Property Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

As per allegation made in the FIR, an accident took place with a vehicle and one person died. The FIR named accused persons along with 100 unknown persons attacked the police party and they manhandled them and also attacked them. The allegation against co-accused Hasim is that he snatched the service pistol of the informant and co-accused Tausif snatched Rs. 3000/- from his pocket. The accused persons also abused the *Chaukidar* calling his caste name.

Learned counsel for the appellants has submitted that they are innocent and have falsely been implicated. As a matter of fact, the mob was protesting because one person died in an accident and the appellants have falsely been implicated. So far as the provision of SC/ST Act is concerned, it does not attract at all, because the intention of the appellants was not to humiliate or intimidate the *Chaukidar*. The occurrence took place as one



person died in an accident.

There is no specific allegation against the appellants to assault the informant or any other person. The allegation is general and omnibus. The occurrence took place due to the fact that a person lost his life in an accident due to motor accident.

Considering the facts and circumstances, the appeal is allowed and the impugned order dated 03.02.2022 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 Judge cum Spl. Judge, Araria in connection with Jokihat (Mahalgaon) P.S.Case No. 272 of 2020 (Spl. (SC/ST) Case No. 172 of 2020.

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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