

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.944 of 2022

Arising Out of PS. Case No.-276 Year-2020 Thana- JOKIHAT District- Araria

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1. MD. HASHIM @ M. HASHIM @ HASIM DEELAR SON OF LATE SERAJUDDIN R/O VILLAGE- KURSAIL WARD NO.-3, P.S.- MAHALGAON (JOKIHAT), DISTRICT- ARARIA
 2. KARNEL @ MD. JULKARNAIN @ MD. JULKARNEN ALAM SON OF SARWAR @ MUNNA @ SARWAR ALAM R/O VILLAGE- UDA WARD NO.-05, P.S.- MAHALGAON (JOKIHAT), DISTRICT- ARARIA

... .. Appellant/s

Versus

1. The State of Bihar
2. HARENRAM YADAV SON OF DORIK RAY R/O VILLAGE- SHAMRATHHA, WARD NO.-10, P.S.- BIBHUTIPUR, DISTRICT- SAMASTIPUR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Gopal Kumar Jha,Adv.
For the Informant	:	Mr.Jay Prakash Sharma, Adv
For the State	:	Mrs. Usha Kumari No. 1, Spl. PP.

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

4 10-10-2022 The learned counsel for the appellants is directed to remove all the defects pointed out by the office within one month.

Heard learned counsel for the appellants as well as the learned counsel for the informant.

This appeal has been preferred on behalf of the appellants under Section 14 (A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for setting aside the order dated 03.02.2022, passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria registered



for offence punishable under sections 147, 148, 149, 341, 323, 342, 337, 338, 307, 358, 384, 427, 504, 506, 120 (B), 379, 332, 353 of the Indian Penal Code and sections 3 (1) (r) of the SC/ST (POA) Act, as well as Section-3 of the Prevention of damage to Public Property Act whereby the prayer for anticipatory bail of the appellants has been rejected.

The informant Hareram Yadav is driver of ambulance in government hospital. He got an information that someone has sustained injuries in an accident. He along with Raj Kumar Rajak went to village Kaishanpur, where 200-300 persons surrounded the ambulance and they dismantled the ambulance and also assaulted the driver and Raj Kumar Rajak. Forty one persons, including the appellants have been named in the FIR.

The learned counsel for the appellants has submitted that the provisions of SC/ST Act are not attracted in this case. He has submitted further that 200-300 persons, including the forty-one named accused persons have been made accused in the FIR.

On the other hand, the learned counsel for the informant has opposed the prayer for bail and submitted that the appellants are named in the FIR. There is allegation that they committed hindrance in carrying injured to the hospital and they also dismantled the vehicle.



From bare perusal of the FIR it appears that the occurrence had not taken place due to malicious feeling of caste. It is apparent from the FIR that a frenzied mob of 200-300 persons were protesting, as one person was seriously injured.

Considering the above-mentioned facts and circumstances, the appeal is allowed and the impugned order dated 03.02.2022 is set aside.

Accordingly, the appellants, in the event of arrest or surrender before the court below within four weeks from today, are directed to be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Araria in connection with Jokihat (Mahalgaon) P.S. Case No. 276 of 2020.

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

(Nawneet Kumar Pandey, J)

Nirmal/Mahesh

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