

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.924 of 2022

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

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1. MD. TAUSIF REJA @ BABLU S/O TASHIRUL ISLAM R/o village- Kursail Ward No. 07, P.S.- Mahalgaon, District- Araria.
 2. Md. Ashif Reza @ Fudul S/o Tashirul Islam R/o village- Kursail Ward No. 07, P.S.- Mahalgaon, District- Araria
 3. Md. Atif Reza @ Shakir S/o Tashirul Islam R/o village- Kursail Ward No. 07, P.S.- Mahalgaon, District- Araria
 4. Sabab Anwar @ Monu S/o Md. Toufiqul Islam @ Md. Toufiqul Islam R/o village- Kursail Ward No. 07, P.S.- Mahalgaon, District- Araria
 5. Shahnawaj Alam @ Jugnu S/o Md. Toufiqul Islam @ Md. Toufiqul Islam R/o village- Kursail Ward No. 07, P.S.- Mahalgaon, District- Araria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sadanand Sah The Sub-Inspector of Police cum S.H.O. Mahalgaon Police Station, District- Araria

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Mukesh Kumar Rana
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

2 26-07-2022 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 in connection with Special (SC/ST) Case No. 172 of 2020, arising out of Jokihat (Mahalgaon) P.S. Case No. 272 of 2020 registered for offence punishable under sections 147, 148, 149, 341, 342, 323, 337, 338, 307, 353, 384, 427, 504, 506, 120B, 379, 332, 333 of the Indian Penal Code and sections 3 (i) (r) of the SC/ST Act and section 3 of the Prevention of Damage to the Public Property Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

The informant is A.S.I.. As per allegation in *fardbeyan*, one person lost his life in an accident. The persons of the vicinity 200-300 in number assembled and protested against the police personnels. The informant claimed to identify 48 accused persons named in the FIR. As per allegation, the mob, including the named accused persons, dismantled the police vehicle and co-accused Tousif took away Rs.3,000/- from the pocket of the informant. The accused persons also assaulted the informant and the mob snatched his service revolver. The persons present in mob also abused the informant by calling his caste name.

The learned counsel for the appellants has submitted



that the informant is a Police Officer and there is no occasion or reason to call his caste name. The learned counsel for the appellants has submitted further that the appellants are not amongst the 48 named accused persons.

The learned counsel for the Special Public Prosecutor has opposed the prayer for bail.

From perusal of the FIR it appears that one person breathed his last in an accident, the mob was protesting and the occurrence took place in course of that protest. As such, the provisions of SC/ST Act do not attract *prima facie*.

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. 272 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)

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