

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1967 of 2022**

Arising Out of PS. Case No.-238 Year-2020 Thana- MANJHI District- Saran

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1. Sheikh Ishrar Hussain @ Sheikh Izhar Hussain @ Izhar Hussain S/o Late Jannat Hussain R/o village- Katokhar, P.S.- Manjhi, District- Saran (Chapra)
 2. Nurul Khan @ Nurullah Khan S/o Muslim Khan R/o village- Katokhar, P.S.- Manjhi, District- Saran (Chapra)

... .. Appellant/s

Versus

1. The State of Bihar
2. Binod Kumar Singh S/o Late Nand Kishor Singh R/o village- Katokhar, P.S.- Manjhi, District- Saran (Chapra)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Tiwary, Advocate
For the Informant	:	Mr. Chandra Mohan Jha, Advocate
For the State	:	Mr. Vinay Krishna, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

4 15-12-2022 Learned counsel for the appellants is permitted to remove the defects, as pointed out by the office, if any, within a period of four weeks from today.

Heard learned counsel for the appellants, learned counsel appearing on behalf of the informant and learned Special Public Prosecutor for the State.

This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by order dated 28.03.2022 in A.B.P. No. 2943 of 2021 passed by the learned 3rd Additional District & Sessions Judge-cum-



Special Judge, SC/ST Act, Saran at Chapra in connection with Manjhi P.S. Case No. 238 of 2020 registered under Sections 147, 148, 323, 307, 376, 511 of the Indian Penal Code and Sections 3(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution case, in short, is that the informant's daughter namely Nishu Kumari was going to Anil Sir to inquire regarding her coaching class and when she reached near flour mill of Ramlal then the accused Raja Ansari and Sahil Ansari started vulgar video on mobile to show his daughter and on protest accused Raja Ansari caught hold the hand of the daughter of the informant and knocked her down on earth and accused Sahil Ansari tried to commit rape upon her but anyhow the daughter of the informant fled away. It is further alleged that accused Raja Ansari called her friends and relative and other 40 to 50 unknown persons who armed with sword, rod, gupti and surrounded the house the informant and Asraf Ali gave sword blow on the neck of the informant who sustained and fell down. Accused mansoor Ansari, abused Deepak Chaudhary taking his caste name and on the order of the accused Mansoor Ansari, Jaidul Khan gave iron pipe blow on the head due to which Deepak Chaudhary sustained injury on



his neck and the accused Hasnain Khan threw petrol bomb and acid with intention to spread communal riot.

Learned counsel for the appellants submits that the appellants have clean antecedents and they have been falsely implicated in the present case. He further submits that it appears from the FIR that there is general and omnibus allegation against all the accused persons including the appellants. He further submits that there is no allegation of any assault or any overt act against the appellants and at best the appellants are a member of mob and the present case is counter blast of Manjhi P.S. Case No. 237 of 2020 filed by co-accused Salma Khatoon against the family members of the informant and others.

Learned counsel for the informant as well as learned Special Public Prosecutor for the State have vehemently opposed the prayer for anticipatory bail of the appellants but fairly submits that there is no allegation of any assault or overt act against the appellants.

After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Scheduled Casts and Scheduled Tribes Act is made out.

Hence, let the appellants, above named, in the event



of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, 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 court below where the case is pending in connection with Manjhi P.S. Case No. 238 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure along with other following conditions :-

(1) Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

(2) If the appellants tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage, it is found that the appellants have concealed their criminal antecedents, the court below shall take step for



cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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