

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2601 of 2022

Arising Out of PS. Case No.-348 Year-2021 Thana- CHHATAPUR District- Supaul

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1. BIRENDRA YADAV @ BOWA YADAV Son of Ravi Yadav Resident of village- Katahra Ward no. 10, P.S- Chhatapur, Dist- Supaul
 2. Sikam Lal Sharma Son of Late Jiyalal Sharma Resident of village- Katahra Ward no. 10, P.S- Chhatapur, Dist- Supaul
 3. Hira Lal Sharma Son of Late Jagdeo Sharma Resident of village- Katahra Ward no. 10, P.S- Chhatapur, Dist- Supaul
 4. Rajesh Sharma Son of Kulanand Sharma Resident of village- Katahra Ward no. 10, P.S- Chhatapur, Dist- Supaul

... .. Appellant/s

Versus

1. The State of Bihar
2. Bechan Sharma Son of Late Dhanay Sharma Resident of village- Katahra Ward no. 10, P.S- Chhatapur, Dist- Supaul

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arun Kumar Jha, Advocate
For the Respondent/s : Mr. Sadanand Paswan, spl

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 23-11-2022 Heard learned counsel for the appellants and learned
Spl. P.P. for the State.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 18.06.2022 in A.B.P. No. 643 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, S.C./S.T. (POA) Act, Supaul in connection with Supaul in



Chhatapur P.S. Case No. 348 of 2021 registered for the offences punishable under Sections 147, 148, 149, 447, 448, 323, 324, 325, 307, 504 and 506 of the Indian Penal Code as well as Sections 3(1)(r) of the SC/ST Act.

Learned counsel for the appellants seeks permission to withdraw the present appeal with respect to appellant no. 3.

Permission is accorded.

The informant alleges that the accused persons including the appellants along with 39 unknown accused persons came at his house at 12:00 in the midnight and took out his son and abused him by caste name and assaulted by fist, further, Ganga Yadav assaulted his son by sword, Sikam lal assaulted informant by lathi causing injury on palm and fracture of finger of left arm, further occurrence took place on account of dispute relating to election.

Learned counsel for the appellants submits that appellant no. 2 has antecedent of one case and rest of the appellants are persons with clean antecedent and have been falsely implicated in the present case, it is next submitted that on account of dispute relating to election the alleged occurrence is said to have taken place, it is next submitted that from the side of the appellant also Chhatapur P.S. Case No. 349 of 2021



against the informant and his side. Learned counsel next submits that from the side of the appellants, persons have received grievous injuries, it is next submitted that specific allegation of assault is alleged against Ganga and Sikam Lal and Ganga is not an appellant in the present appeal, it is also submitted that even presuming what has been alleged is true without admitting then the occurrence is alleged to have taken place at 12:00 in the midnight at the house of the informant and thus was not in public view. Learned counsel next submits that since the side of the appellants were assaulted who received grievous injury, as such, the present false case came to be instituted. Learned counsel further submits that appellant no. 2 and 4 are also Scheduled Castes, as such, SC/ST Act is not attracted against them. Learned counsel next submits that as far as Birendra Yadav is concerned, against him no specific allegation are alleged, it is further submitted that it absolutely does not stand to reason that how the learned Additional Sessions Judge 1st cum-Special- Judge, Supaul in a mechanical manner rejected the anticipatory bail application. The Court after hearing the learned counsel for the appellants thought of issuing the show cause to the learned Sessions Judge who has passed the Order but refrains.



Learned Spl. P.P. for the State opposes the prayer for anticipatory bail of the appellants.

In view of the submissions made by the learned counsel for the appellants, the order dated 18.06.2022 in A.B.P. No. 643 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, S.C./S.T. (POA) Act, Supaul in connection with Supaul in Chhatapur P.S. Case No. 348 of 2021 is hereby set aside and the appellant above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Supaul in Chhatapur P.S. Case No. 348 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the appeal stands allowed.

(Satyavrat Verma, J)

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