

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3946 of 2021

Arising Out of PS. Case No.-132 Year-2020 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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1. TAJ MIAN @ TAJ ALAM SON OF GAFUR MIAN RESIDENT OF VILLAGE- SIRIYAWAN, P.S- MAGADH MEDICAL, DIST- GAYA
 2. RAFIQUE MIAN SON OF IMAMAN MIAN RESIDENT OF VILLAGE- SIRIYAWAN, P.S- MAGADH MEDICAL, DIST- GAYA
 3. ARIF ALAM SON OF RAJ MIAN @ TAJ ALAM RESIDENT OF VILLAGE- SIRIYAWAN, P.S- MAGADH MEDICAL, DIST- GAYA
 4. MUSTAQUE ALAM SON OF SHANSHUDDIN MIAM RESIDENT OF VILLAGE- SIRIYAWAN, P.S- MAGADH MEDICAL, DIST- GAYA
 5. IMTEYAZ ALAM SON OF BUNNI MIAN RESIDENT OF VILLAGE- SIRIYAWAN, P.S- MAGADH MEDICAL, DIST- GAYA
 6. NATAKA @ NARKATTA SON OF ASLAM MIAN RESIDENT OF VILLAGE- SIRIYAWAN, P.S- MAGADH MEDICAL, DIST- GAYA
 7. TAKLA ALAM SON OF ASLAM MIAN RESIDENT OF VILLAGE- SIRIYAWAN, P.S- MAGADH MEDICAL, DIST- GAYA
 8. TAUFIQUE ALAM SON OF RAFIQUE ALAM RESIDENT OF VILLAGE- SIRIYAWAN, P.S- MAGADH MEDICAL, DIST- GAYA

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vinod Kumar, Adv.

For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 04-01-2022 Heard learned counsel for the appellants and learned Spl.P.P. for the State through virtual court proceedings.

Learned counsel for the appellants is directed to remove the defects as pointed out by the office, within four weeks. In the eventuality of non-removal of defects within stipulated period, the office will place the matter before the Bench.



At the very outset, learned counsel for the appellants seeks permission to withdraw the prayer for anticipatory bail as against the appellant nos.2, 4, 5, 6 and 8, as they have already been arrested.

Permission is granted.

Accordingly, the prayer for anticipatory bail made through the instant appeal, on behalf of the appellant nos. 2, 4, 5, 6 and 8 is dismissed as infructuous.

Now, the present appeal is being heard on the prayer of grant of anticipatory bail of appellant nos.1, 3 and 7.

This is an appeal under section 14(A) of the Scheduled Castes and Scheduled Tribes Act (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail vide order dated 28.08.2020, passed by learned SC/ST Court, Gaya, in connection with Magadh Medical P.S. Case No.132 of 2020, registered under sections 147, 148, 149, 341, 323, 325, 504, 506, 34 of the IPC and sections 3(i)(r)(s)(w) (i)/3(2)(v-a) of the SC and ST Act.

The prosecution case in short is that some persons were quarreling at the door of the informant and on objection raised by the informant, Taj Mian and Rafique Mian assaulted him with lathi and on alarm his nephew came to rescue but all the



appellants assaulted with stones, bricks causing head injury. It is alleged that they abused the informant's side in filthy language.

It is submitted by learned counsel for the appellants that the appellants are quite innocent and have not committed any offence. No such occurrence as alleged has ever taken place. Appellants have been falsely implicated in the case with frivolous allegation. There is a case and counter-case between the parties and the injury of the informant and others are simple in nature. There is no allegation against the appellants to abuse the informant or his family members by taking caste name. In fact the appellants have never come to the informant's house and abused them. The accusation does not constitute any offence under SC/ST Act is made out inasmuch as there is no allegation that the alleged occurrence has taken place in public view. Appellants have no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for anticipatory bail.

Since, no SC/ST Act is applicable against the appellants as the occurrence has not taken place in public view, hence, it is not required to issue notice to the informant.

Considering the facts and circumstances of the case, the appellant nos.1, 3 and 7 named above, in the event of their arrest



or surrender before the learned Court below within a period of six weeks from today, is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-I,-cum-Spl. Judge, SC/ST, Saran at Chapra, in connection with Garkha P.S. Case No.356 of 2018, subject to the condition as laid down under section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside to the extent as mentioned above and this appeal is partly allowed.

(Anjani Kumar Sharan, J)

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