

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.658 of 2021**

Arising Out of PS. Case No.-10 Year-2020 Thana- BARHAT District- Jamui

1. BIRENDRA YADAV Son of Late Yadunandan Yadav
 2. Mithlesh Kumar @ Mithlesh Yadav Son of Sri Birendra Yadav
 3. Amlesh Yadav @ Amlesh Kumar Son of Sri Birendra Yadav
 4. Malita Devi Wife of Amlesh Kumar
 5. Ilaichi Devi @ Ilachawa Devi Wife of Sri Birendra Yadav
- All are Resident of Village - Bhaluka Banjhi Payar, P.S.- Barahat, District
- Jamui

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Prakash Mahto, Advocate

For the Respondent/s : Mrs. USHA KUMARI 1, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

3 18-07-2022 No one appears on behalf of the informant. Heard
learned counsel for the parties.

Learned counsel for the appellants, at the outset,
submits that appellant no. 1 and 2 have already been arrested
during the pendency of this appeal, as such, seeks permission to
withdraw the same against them.

Permission is accorded.

Learned counsel next submits that he is not
pressing the appeal of appellant no. 3 Amlesh Yadav and, thus,
seeks permission to withdraw the same against him.

Permission is accorded.

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 refusal of prayer for anticipatory bail vide order dated 09.10.2020 in A.B.A. No. 296 of 2020 passed by the learned 1st Additional Sessions Judge, Jamui in connection with Barahat P.S. Case No. 10 of 2020 registered under Sections 147, 148, 149, 341, 323, 307, 384, 337, 338, 504, 506, 325 of the Indian Penal Code as well as Sections 3(i)(r)(s) of the SC/ST Act.

Learned counsel for the appellant no. 4 and 5 submits that appellant no. 4 and 5 are females and are persons with clean antecedent.

The informant alleges that while he along with his father and brother had stopped their vehicles near PDS shop, the appellants along with other named accused persons came, variously armed and surrounded them. It is alleged that Amlesh Kumar assaulted with axe on the head of the informant causing injury, thereafter Mithilesh Yadav assaulted him with rod on his neck and leg causing injury and when his brother Sujeet Kumar came to rescue the informant, he was also assaulted by Birendra Kumar with lathi and threatened the informant on the point of pistol and even demanded extortion of Rs.20,000/- per month. It



is alleged that father of the informant out of fear gave Rs.15,000/- from his pocket to Birendra Kumar, thereafter it is alleged that appellant no. 5 Ilaichi Devi and Amlesh Kumar also assaulted the informant with stone and when his brother Deepak Chaudhary came all the accused persons started assaulting him causing fracture on the hand and even abused by taking caste name.

Learned counsel for the appellant no. 4 and 5 submits that appellant no. 4 and 5 have been falsely implicated as they are family members of Birendra Yadav and Amlesh Yadav and the allegation of assault is specifically against the male members but only to give a serious colour to the case, it is alleged that appellant no. 5 also assaulted. It is next submitted that the appellant no. 4 and 5 and the informant are related to each other, as such, no offence under the SC/ST Act is made out. It is also submitted that this fact has been concealed that they are relatives though it has been specifically pleaded at para 9 of the memo of appeal. It is next submitted that it absolutely does not stand to reason that how the learned court below rejected the prayer for anticipatory bail on the ground that it is not maintainable under the SC/ST Act when prima facie no offence under the SC/ST Act is made out as the informant and the



appellant no. 4 and 5 are relatives.

Learned Special Public Prosecutor opposed the prayer for anticipatory bail.

Considering the submissions made by the learned counsel for the appellant no. 4 and 5, let the appellant no. 4 and 5, above named, in the event of their arrest or surrender before the learned Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bonds of Rs.5,000/- (rupees five thousand) each with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

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

(Satyavrat Verma, J)

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