

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4214 of 2021

Arising Out of PS. Case No.-125 Year-2020 Thana- MANJHI District- Saran

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1. TUNTUN MAHTO @ TUNTUN Son of Late Ram Babu Mahto Resident of Village - Salempur, P.S.- Manjhi, Distt.- Saran.
 2. Randhir Mahto Son of Ambika Mahto Resident of Village - Salempur, P.S.- Manjhi, Distt.- Saran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Bhola Mahto S/o- Late Dolan Mahto Resident of Village- Salempur, P.S.- Manjhi, Dist.- Saran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Vijay Kumar Sinha, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, Spl.P.P. Mr.Ram Binod Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 01-02-2022 Heard the parties through virtual Court proceedings.

This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2016 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 26.07.2021, passed by learned 1st Additional Sessions Judge, Saran at Chhapra, in connection with Manjhi P.S. Case No.125 of 2020, registered u/s 341, 323, 504, 385, 307, 354, 34 of the IPC and section 3(r)(s), SC/ST Act.

Allegation against the appellants is that they along with others have assaulted one Sonu Uranw. Further allegation



against appellant no.2 is that he assaulted Sarikha Mahto by giving Farsa blow on his head, which caused head injury and when the informant went to save him, then all accused persons assaulted him with lathi and danda. It is said that all the accused abused Sonu Uranw in the name of caste.

It is submitted by learned counsel for the appellants that appellants are innocent and have not committed any offence as alleged in the FIR. No such occurrence, in the manner as alleged has ever taken place. Appellants have been falsely implicated in the case merely on suspicion. The appellants were neither arrested on the spot nor any incriminating articles have been recovered from their conscious physical possession. No specific allegation of hurling abuses in the caste name is levelled upon the appellants, as such, no offence under the SC/ST Act is made out against the appellants. The appellants have no criminal antecedent and have been languishing in custody since 24.06.2021, as also mentioned in para-3 of the bail application.

Learned Spl. PP for the State as well as learned counsel for the informant opposed the prayer for bail.

In the facts and circumstance of the case, I am not inclined to enlarge the appellant no.2 on bail, as there is a specific allegation against him of assaulting Sarikha Mahto by



means of Farsa and the Doctor has opined that the injury sustained is on the vital part of the body and grievous in nature.

The prayer for bail on behalf of the appellant no.2 is hereby rejected with a liberty to renew his prayer for bail after framing of the charge.

However considering that there is no specific allegation against the appellant no.1, who has undergone custody of more than seven months, I am inclined to enlarge him on bail. Accordingly, the above named appellant no.1 is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Saran at Chhapra, in connection with Manjhi P.S. Case No.125 of 2020.

The impugned order is set aside and the appeal is party allowed.

(Anjani Kumar Sharan, J)

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