

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4537 of 2021

Arising Out of PS. Case No.-158 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

1. ARVIND THAKUR Son of Vinod Thakur Resident of Village- Majhaulia, P.S.- Ahiyapur, District- Muzaffarpur.
2. DHARMENDRA THAKUR Son of Vinod Thakur Resident of Village- Majhaulia, P.S.- Ahiyapur, District- Muzaffarpur.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Krishna Kant Singh
For the Respondent/s	:	Mr.Sadanand Paswan
		Mr.Kamlesh Kumar Pathak
		Mr.Mukesh Kumar Suman

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 02-03-2022 Heard learned counsel for the appellants, learned counsel for the informant and learned Special Public Prosecutor for the State.

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

This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities New Amended) Act (hereinafter in short referred to as the ‘SC/ST Act’) against the refusal of prayer for bail vide order dated



18.09.2021, passed by learned Additional Sessions Judge -III- cum- Special Judge, SC/ST (POA) Act, Muzaffarpur, in connection with Ahiyapur P.S. Case No.158 of 2021, registered under sections 341, 323, 307, 354, 354B, 504, 34 of the IPC and sections 3(i)(r)(s) of the SC/ST (POA) Act.

The prosecution case in brief, is that while the informant along with his nephew and nieces was returning to their home, appellant no.1 started to tease her niece and on objection, he assaulted her with iron rod. Thereafter, all the accused persons abused by caste name and assaulted them.

It is submitted by learned counsel for the appellants that appellants are innocent and have not committed any offence. No such occurrence, in the manner as alleged has ever taken place. Appellants have been falsely implicated in this due to prior dispute and dirty village politics. The allegation levelled against the appellants is not specific rather general and omnibus in nature, as such, no offence under the SC/ST Act is made out against the appellants. The injuries are simple in nature. The appellants have no criminal antecedent and have been languishing in custody since 29.07.2021.

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



the present appeal is not maintainable because the charge sheet has been submitted under the POCSO Act, therefore, appellants should file the criminal miscellaneous application.

In response of this submission, learned counsel for the appellants submit that though the charge sheet has been submitted under the POCSO Act but the impugned order has been passed by the Special Court of SC/ST and no cognizance has been taken under the POCSO Act, as such, this appeal is maintainable.

In the facts and circumstance of the case, since the impugned order is passed by Special court of SC/ST and there is no specific allegation against the appellants, let the above named appellants 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 Sessions Judge -III-cum- Special Judge, SC/ST (POA) Act, Muzaffarpur.

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

(Anjani Kumar Sharan, J)

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