

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4786 of 2021

Arising Out of PS. Case No.-93 Year-2021 Thana- MALI District- Aurangabad

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1. Rajiv Pandey @ Rajeev Kumar Son of Late Maharaj Pandey R/o Village - Pandey Karma, P.S.- Mali, District - Aurangabad
 2. Rajnish Kumar Pandey @ Rajnish Pandey Son of Rajiv Pandey @ Rajeev Kumar R/o Village - Pandey Karma, P.S.- Mali, District - Aurangabad
 3. Binish Kumar Pandey Son of Rajiv Pandey @ Rajeev Kumar R/o Village - Pandey Karma, P.S.- Mali, District - Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Shrawan Kumar Rajak Son of Late Doman Baitha R/o Village - Pandey Karma, P.S.- Mali, District - Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ashok Kumar Singh
For the Informant	:	Ms. Rupa Kumari
For the Respondent/s	:	Mr.Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 27-07-2022 At the outset, learned counsel for appellants seeks permission to withdraw this appeal with regard to Rajeev Pandey @ Rajeev Kumar appellant no. 1, as during pendency of this case appellant no. 1 has already been arrested.

Permission is granted. This appeal with regard to appellant no. 1 is dismissed as withdrawn.

Heard learned counsel for the appellants, counsel for informant and learned Special Public Prosecutor for the State.

The present memo of appeal has been filed on behalf of the appellants for grant of anticipatory bail against the order



dated 23.11.2021 passed by learned Ist Additional District & Sessions Judge-cum-Special Judge (SC/ST Act), Aurangabad in connection with Mali P.S. Case No. 93 of 2021 under Sections 341, 323, 504, 506 and 34 of the Indian Penal Code and section 3(i)(r)(s)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for anticipatory bail of the appellants was rejected.

As per the prosecution case, on 19.10.2021 at 7.30 pm while the informant at his house, all the accused persons started abusing the informant by calling his caste name. On protest, the accused persons assaulted him and when his son came to rescue he was also assaulted by the accused persons. The cause of occurrence was that there was scuffle with the boys of the village Kamdarpur in which the informant had disclosed the name of assailants. The appellants claimed that it was the informant who disclosed their names.

It is submitted on behalf of the appellants that there is general and omnibus allegation. No specific overt act has been alleged against these appellants. Present case is counter blast of Mali PS case No. 94 of 2021. The alleged occurrence took place on 19.10.2021, but the FIR was lodged on 25.10.2021 after delay of five days without any plausible explanation. No case



under SC/ST Act is made out, as the occurrence has not taken place within public view. The dispute is purely civil in nature. Appellants have got clean antecedent.

Considering the aforesaid facts, this appeal is allowed. The impugned order dated 23.11.2021 passed by learned 1st Additional District & Sessions Judge-cum-Special Judge (SC/ST Act), Aurangabad is set aside.

Let the appellant nos. 2 and 3 above-named, in the event of their arrest/surrender before the court below within a period of six weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional District & Sessions Judge-cum-Special Judge (SC/ST Act), Aurangabad in connection with Mali P.S. Case No. 93 of 2021.

(Prabhat Kumar Singh, J)

vinita/-

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