

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1631 of 2023

Arising Out of PS. Case No.-3 Year-2022 Thana- MAHNAR District- Vaishali

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1. SONU KUMAR Son of Vinay Kumar Ray R/V- Thanpur, P.O- Parmanandpur, PS-mahnar, Dist- Vaishali, Pin- 844507
 2. Sharvan Kumar Son of Dinesh Ray R/V- Thanpur, P.O- Parmanandpur, PS-mahnar, Dist- Vaishali, Pin- 844507
 3. Santosh Ray son of Late Laxman Ray R/V- Thanpur, P.O- Parmanandpur, PS-mahnar, Dist- Vaishali, Pin- 844507
 4. Ganesh Ray Son of Nand lal Ray R/V- Thanpur, P.O- Parmanandpur, PS-mahnar, Dist- Vaishali, Pin- 844507
 5. Mahesh Kumar @ Mahesh Rai Son of Nand Lal Ray R/V- Thanpur, P.O- Parmanandpur, PS-mahnar, Dist- Vaishali, Pin- 844507
 6. Sanjay Kumar Ray @ Sanjay Rai Son of Vishwanath Ray R/V- Thanpur, P.O- Parmanandpur, PS-mahnar, Dist- Vaishali, Pin- 844507

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanjay Ram Son of Mahendra Ram R/V- Parmanandpur, P.O- Parmanandpur P.S- Mahnar, Dist- Vaishali, Pin- 844507

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhay Kumar
For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 25-07-2023 1. Heard learned counsel for the appellants and learned Spl. P.P. for the State, Mr. Binay Krishna and learned counsel for the informant.

2. 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 the refusal of prayer for anticipatory bail vide



order dated 14.03.2023 in A.B.P. No. 433 of 2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Vaishali at Hajipur in connection with Mahnar P.S. Case No. 03 of 2022 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 504, 324, 325 and 307 of the Indian Penal Code as well as Sections 3(1)(r) (s) of the SC/ST Act.

3. Learned counsel for the appellants seeks permission to withdraw the present appeal with respect to appellant No. 5.

4. Permission is accorded.

5. The informant alleges that in the upcoming panchayat election, the informant tried to get support for election and for that he went near the house of Chandrika Ram where all the 13 named accused persons were present, thereafter, on orders of Amresh Kumar, all accused started assaulting him and Naresh Kumar alias Chotu, with an intention to kill, assaulted with *farsa* causing injury near his eyes, thereafter, Amresh also assaulted Nirbhay Rai causing injury to him.

6. Learned counsel for the appellants submits that the appellant No. 1, 2 and 4 are persons with clean antecedent and



appellant No. 3 has antecedent of one case.

7. Learned counsel for the appellants submits that the appellants have been falsely implicated in the present case, it is next submitted that from bare perusal of the allegations as alleged in the FIR, it would manifest that on account of dispute which had arisen in the upcoming election, the present occurrence is alleged to have been committed by the appellants, it is further submitted that the allegation of assault is general and omnibus in nature against the appellants and even presuming what has been alleged is true without admitting then it is not the case of the appellant that the occurrence was witnessed by any independent witness in the village or by Chandrika Ram near whose house, the occurrence is alleged to have been committed.

8. Learned Spl. P.P. for the State along with learned counsel for the informant opposes the prayer for appeal of the appellants but are not in a position to rebut the submission of the learned counsel for the appellant that the allegation of assault with respect to the appellants are general and omnibus in nature and the occurrence was not committed within public view.

9. In view of the submissions made by the learned counsel for the appellants, the order dated 14.03.2023 in A.B.P.



No. 433 of 2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Vaishali at Hajipur in connection with Mahnar P.S. Case No. 03 of 2022 is hereby set aside and the appellant above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, 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/successor court in connection with Mahnar P.S. Case No. 03 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

10. **Accordingly the appeal stands allowed.**

(Satyavrat Verma, J)

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