

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1805 of 2023

Arising Out of PS. Case No.-223 Year-2019 Thana- FATUA District- Patna

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1. VICKY KUMAR SON OF OM PRAKASH SINGH R/O VILLAGE-GADHOCHAK, P.S.- NADI, DISTRICT- PATNA
 2. SANTOSH KUMAR SON OF YOGI RAI @ YOGENDRA RAI R/O VILLAGE- GADHOCHAK, P.S.- NADI, DISTRICT- PATNA
 3. KUNDAN KUMAR SON OF YOGI RAI @ YOGENDRA RAI R/O VILLAGE- GADHOCHAK, P.S.- NADI, DISTRICT- PATNA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. Naveen Kumar Son of Sri Brind Kumar R/o vill- Govindpur , P.S. Fatuha, Dist- Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raj Krishna Jha, Advocate
For the State : Mr.Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 01-12-2023 Heard learned counsel for the appellants and learned Spl.P.P. for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes against the refusal of prayer for anticipatory bail vide order dated 11.01.2023 passed by the learned Exclusive Special Judge, SC/ST Act, Patna in connection with A.B.P. No. 7851 of 2022 (arising out of Special Case No. 160 of 2019, Fatuha P.S. Case No. 223 of 2019) registered for the alleged offences under Sections 147, 148, 149, 323, 341, 307, 427, 504 and 354B of the Indian Penal Code and Sections 3(i)(r)(w) of the Scheduled Castes and Scheduled Tribes Act.



3. As per prosecution case, the Principal of the School forbade playing loudspeaker to the co-accused Arjun Singh then the appellants and the co-accused persons along with 11 named accused persons and 40-50 unknown miscreants armed with *lathi*, *danda*, hockey, hockey, bat etc. came to the school and the co-accused Arjun Singh assaulted on the head of Shashi Kumar (teacher) with hockey stick causing injury to him while other persons damaged the vehicle parked in front of the school and misbehaved with the lady peon of the school by hurling caste related abuse at her.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this case. The appellants are not named in the F.I.R. There is general and omnibus allegation against the appellants. The specific allegation of assault is against the co-accused Arjun Singh who has already been granted regular bail by the learned lower court on 24.04.2019. It is further submitted that as per the F.I.R., on 06.04.2019 at 6.45 P.M., no member of public was present at the relevant point of time of the incident and hence, no offence under provisions of SC/ST Act is made out against the appellants. The co-accused persons have already granted anticipatory bail by the Coordinate Bench of this court vide order dated 05.09.2019 passed in Cr. Appeal (SJ) No. 3092 of 2019. The appellants have no criminal antecedent.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for anticipatory bail



of the appellants.

6. In view of the aforesaid facts and circumstances of the case as well as the fact that no case is made out against the appellants, the impugned order dated 11.01.2023 passed by the learned Exclusive Special Judge, SC/ST Act, Patna in connection with A.B.P. No. 7851 of 2022 arising out of Special Case No. 160 of 2019, Fatuha P.S. Case No. 223 of 2019, is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, in the event of their arrest/ surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand)each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Act, Patna in connection with Special Case No. 160 of 2019 arising out of Fatuha P.S. Case No. 223 of 2019, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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