

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2433 of 2023

Arising Out of PS. Case No.-187 Year-2023 Thana- MAJHAULIA District- West Champaran

1. NAUSHAD @ SEIKH NAUSHAD S/o- SEIKH JAINUL MIAN Village- Madhopur Seikh Toli Ps- Majhauria Dist- West Champaran
2. Ali Hasan Mian @ Sk. Ali Hassan son of Nesar Mian Village- Madhopur Seikh Toli Ps- Majhauria Dist- West Champaran
3. Mogal Alam @ Seikh Mugul Mian son of Late Safi Mian @ Late Sheak Safi Ahamad Village- Madhopur Seikh Toli Ps- Majhauria Dist- West Champaran
4. Nausad Alam @ Seikh Nausad son of Nesar Mian Village- Madhopur Seikh Toli Ps- Majhauria Dist- West Champaran
5. Md. Azad Mian @ Seikh Azad Mian son of Nathuni Mian @ Seikh Nathuni Mian Village- Madhopur Seikh Toli Ps- Majhauria Dist- West Champaran
6. Seikh Nathuni Mian son of Late Fuli Mian Village- Madhopur Seikh Toli Ps- Majhauria Dist- West Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Nagina Das son of Late Punyadeo Das Village- Madhopur Seikh Toli , Ward no-8, Ps- Majhauria Dist- West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Raushan Raj
For the Respondent/s : Mrs. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 13-09-2023 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

2. In compliance of the order dated 16.08.2023, learned Spl.PP for the State informed the informant to appear in the present case through his counsel but nobody entered appearance on his behalf.

3. This is an appeal under Section 14(A)(2) of the



Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 27.04.2023 passed by learned 1st Additional District & Sessions Judge cum Special Judge (SC/ST Act), Bettiah, West Champaran in connection with Majhauria P.S. Case No.187 of 2023, registered under Sections 307 and other allied Sections 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.

4. Allegedly, on the occasion of *Holi*, when the informant was going with playing sound system near a mosque, the members of Muslim community abused the informant by taking his caste name and also attacked the informant's side due to which they got injured.

5. It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to dirty village politics. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. There is no specific overt act against the appellant. He further submits that there is a case and counter-case between the



parties and one person from the appellant's side has been killed during the course of alleged occurrence. There is inordinate delay of seven days in lodging the case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. Appellants have no criminal antecedent as mentioned in para-3 of memo of appeal.

6. Learned Spl. PP for the State opposed the prayer for bail.

7. Considering the facts and circumstances of the case as well as considering the nature of allegation, I am not inclined to enlarge the appellant on bail. The prayer for grant of bail on his behalf is hereby rejected.

8. This appeal is accordingly, dismissed.

9. However, if the appellant surrenders before the learned Court below within a period of six weeks from today and seek for regular bail, the learned Court below shall pass the order on the same day, in accordance with law.

(Anjani Kumar Sharan, J)

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