

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2487 of 2022

Arising Out of PS. Case No.-33 Year-2022 Thana- RAJEPUR District- East Champaran

1. NANDU SAHANI Son of Late Bijali Sahani @ Bijuli Sahani Resident of Village - Chakki Bhurkurwa, P.S.- Rajepur, Distt.- East Champaran.
2. BHAGYA NARAIN SAHANI Son of Nandu Sahani Resident of Village - Chakki Bhurkurwa, P.S.- Rajepur, Distt.- East Champaran.
3. DINANATH SAHANI @ DINANATH KUMAR SON OF NANDU SAHANI Resident of Village - Chakki Bhurkurwa, P.S.- Rajepur, Distt.- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. BINDA BAITHA Son of Late Badari Baitha Resident of Village - Chakki Bhurkurwa, P.S.- Rajepur, Distt.- East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Madhurendra Kumar,Advocate
For the Respondent/s : Mrs.Usha Kumari 1, Spl.P.P

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 01-02-2023 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

The appellants apprehend their arrest in connection with A.B.P. No. 1136 of 2022 arising out of Rajepur P.S. Case No. 33 of 2022 for the offence registered under Sections 3(i)(r) (s) of SC/ST Act.

On 28.09.2022, learned counsel for the appellants sought and was permitted to withdraw the appeal so far as appellant (Jitendra Sahani @ Jitendra Kumar) is concerned.

So far as the other appellants are concerned, the



perusal of the FIR would show that the appellant no. 3 (Dinanath Sahani @ Dinanath Kumar) gave '*lathi*' blow on the head of the informant causing injuries to him.

In the aforesaid circumstances, so far as appellant no. 3, Dinanath Sahani @ Dinanath Kumar is concerned, no relief can be granted to him and his appeal stands rejected.

So far as appellant no. 1 and 2 namely, Nandu Sahani and Bhagya Narain Sahani are concerned, a perusal of the FIR would show that the nature of allegation against them is omnibus, it was Dinanath Sahani who had given the blow causing injury. Further, it is not clear from the FIR whether these two appellant took any caste name or not. Further, some of the similarly situated persons have since been granted the relief vide Criminal Appeal (SJ) No. 2577 of 2022 dated 25.01.2023.

Learned Special P.P. for the State opposes the prayer for bail.

Considering that the allegation against appellant no. 1 and 2 are omnibus in nature, they do not have criminal antecedent, there is no specific allegation of taking caste name against them, some of the similarly situated appellants have been granted relief, as stated above, this Court is inclined to extend them the same relief.



Accordingly the order dated 14.06.2022 passed by Special Judge SC-ST, East Champaran, Motihari in A.B.P. No. 1136 of 2022 so far as it relates to appellant no. 1 and 2 is/are concerned, the same is set aside.

The appeal relating to appellant nos. 1 & 2 are allowed with conditions.

Let the appellant no. 1 and 2 namely, Nandu Sahani and Bhagya Narain Sahani respectively in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST Act, East Champaran at Motihari in connection with A.B.P. No. 1136 of 2022 arising out of Rajepur P.S. Case No. 33 of 2022 subject to condition as laid down under Section 438(2) of the Cr.P.C with further conditions:

(i) one of the bailor should be the family member of the appellant, who shall provide official document to show their bona fide;

(ii) the appellants shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their



bail bond by the Trial court itself;

(iii) the appellants shall appear before the concerned police station every fortnight for next six months to mark their attendance;

(iv) the appellants shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;

(v) the appellants shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

(Rajiv Roy, J)

Jagdish/Neha/-

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