

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2579 of 2022

Arising Out of PS. Case No.-37 Year-2022 Thana- GHOSWARI District- Patna

1. ARUN SAHANI S/o- Bhullu Sahani @ Bhallu Sahani Resident of Village - Gorihari , P.S.- Ghoshwari , District - Patna.
2. Shankar Sahani Son of Charitar Sahani @ Chalitar Sahani Resident of Village - Gorihari , P.S.- Ghoshwari , District - Patna.
3. Pankaj Kumar @ Pankaj Sahani Son of Bachu Sahani Resident of Village - Gorihari , P.S.- Ghoshwari , District - Patna.
4. Ashok Sahani Son of Ramashish Sahani Resident of Village - Gorihari , P.S.- Ghoshwari , District - Patna.
5. Pramod Sahani Son of Ram Sahani Resident of Village - Gorihari , P.S.- Ghoshwari , District - Patna.
6. Mahendra Sahani Son of Bhashro Sahani @ Bhasho Sahani Resident of Village - Gorihari , P.S.- Ghoshwari , District - Patna.
7. Mahesh Kumar Parashar @ Mahesh Sahani Son of Visheshwar Sahani Resident of Village - Gorihari , P.S.- Ghoshwari , District - Patna.
8. Bineshar Sahani @ Bindeshwar Sahani Son of Krishna Sahani Resident of Village - Gorihari , P.S.- Ghoshwari , District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dharamveer Paswan S/o- Sri Ramishwar paswan Resident of Village - Gorihari , P.S.- Ghoshwari , District – Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Arvind Kumar Pradhan
For the Respondent/s	:	Mr. Sadanand Paswan
		Mr. Avinash

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

3 25-01-2023 The learned counsel for the appellants is directed to remove all the defects pointed out by the office within one month.

Heard learned counsel for the appellants as well as the learned counsel for the informant.

This appeal has been preferred on behalf of the appellants under Section 14 (A) (2) of the Scheduled Castes and



Scheduled Tribes (Prevention of Atrocities) Act, 1989 for setting aside the order dated 05.07.2022 passed by the learned Special Judge, SC/ST Act, Patna in A.B.P. No. 4210/2022, arising out of Ghoswari P.S. Case No. 37/2022, registered for offence punishable under sections 147, 148, 149, 341, 323, 307, 504 of the Indian Penal Code and sections 3 (i) (r) (s)/3 (2) (v) (va) of the SC/ST Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

As per allegation, fourteen named accused persons including the appellants, abused the informant and his family members by calling their caste name and they also assaulted them.

The learned counsel for the appellants has submitted that there is case and counter case and both the parties have sustained injuries. He has submitted further that appellants have fishery rights, as the pond was settled in their favour and the informant side was making hindrance in their rights of fishery. He has also submitted that the injuries are simple in nature and the appellants are the persons of clean antecedents.

On the other hand, the learned counsel for the informant has opposed the prayer for bail and submitted that the accused persons badly assaulted the members of scheduled castes and lastly they humiliated and intimidated.

There is case and counter case. Both the parties have



sustained injuries, as such, it does not appear to be a case of intentional intimidation and humiliation due to malicious feeling of caste.

In my view the provisions of SC/ST Act does not attract *prima facie*.

Considering the above-mentioned facts and circumstances, the appeal is allowed and the impugned order dated 05.07.2022 is set aside.

Let appellants above-named, in the event of their arrest or surrender before the court below within four weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, Patna in connection with Ghoswari P.S. Case No. 37/2022.

Office shall ensure that all defects are removed by the appellants within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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