

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3612 of 2022

Arising Out of PS. Case No.-124 Year-2022 Thana- GAUTAMBUDHNAGAR District-
Siwan

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1. Surendra Sah S/o Late Pannalal Sah R/V- Hajpurva, P.S.- G.B. Nagar, Distt- Siwan, Bihar.
 2. Sudhir Kumar Gupta @ Sudhir Gupta @ Sudhir Sah S/O Hans Nath Gupta @ Hansnath Sah R/V- Hajpurva, P.S.- G.B. Nagar, Distt- Siwan, Bihar.
 3. Vikas Kumar S/O Hiralal Sah @ Harilal Sah R/V- Hajpurva, P.S.- G.B. Nagar, Distt- Siwan, Bihar.
 4. Kundan Kumar @ Kundan Kumar Ram S/O Saroj Prasad @ Saroj Ram R/V- Hajpurva, P.S.- G.B. Nagar, Distt- Siwan, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Arjun Kumar S/o Virendra Manjhi R/V- Sadikpur, P.S.- Pachrukhi, Distt- Siwan, Bihar.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 05-04-2023 It is submitted on behalf of appellants that a jointness petition has been filed on behalf of appellant stating therein that notice of respondent no. 2 has been received by his mother and they are residing jointly at present address, therefore, service of notice be accepted as validly served.

In view of the fact, service of notice deemed to be validly served.

Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.



The present memo of appeal has been filed on behalf of the appellants for grant of anticipatory bail against the order dated 02.07.2022 passed by learned Additional Sessions Judge I-cum-Special Judge, Siwan in connection with G.B. Nagar P.S. Case No. 124 of 2022 under Sections 147, 341, 323, 307, 379, 504, 506 of the Indian Penal Code and section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for anticipatory bail of the appellants was rejected.

As per the prosecution case, on the alleged date and time of occurrence, while the informant was returning home, on the way when he reached village Hajpurva, 15-20 persons surrounded him. Co-accused Yogendra Sah exhorted others to kill the informant by using his caste name. Co-accused Pawan Kumar pushed him on the ground and assaulted him on his head by Farsa. Co-accused Bhola Sah assaulted on his chest and back by iron rod. Remaining ten FIR named accused persons including appellants and 5-10 unknown persons abused the informant by calling caste name and assaulted him. Earlier while informant's brother was returning from Sonvarsa the accused persons surrounded him and co-accused Bhola Prasad assaulted him by sword causing injury on his head. Thereafter



other co-accused also assaulted him.

It is submitted on behalf of the appellants that specific accusation of abuse by caste name is against co-accused Yogendra Sah. Specific accusation of assault is against co-accused Pawan Kumar, Bhola Prasad. So far as appellants are concerned, there is no allegation of abuse by caste name and as such no offence under SC/ST Act is made out. There is general and omnibus allegation of assault against them. Appellants claim clean antecedent.

Counsel for respondent no. 2 however vehemently opposed the prayer for bail.

Considering the aforesaid facts, this appeal is allowed. The impugned order dated 02.07.2022 passed by learned Additional Sessions Judge I-cum-Special Judge, Siwan is set aside.

Let the appellants above-named, in the event of their arrest/surrender before the court below within a period of six weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge I-cum-Special Judge, Siwan in connection with



G.B. Nagar P.S. Case No. 124 of 2022.

(Prabhat Kumar Singh, J)

vinita/-

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