

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5136 of 2023

Arising Out of PS. Case No.-87 Year-2023 Thana- ISHUPUR BARAHAT District- Bhagalpur

1. AHMAD ANSARI SON OF LATE MIYA JAN MIYA R/O VILLAGE-BARMASIA RAJGAON, P.S.- ISHIPUR, BARAHAT, DIST.-BHAGALPUR
2. NEBUL ANSARI SON OF AHMAD ANSARI R/O VILLAGE-BARMASIA RAJGAON, P.S.- ISHIPUR, BARAHAT, DIST.-BHAGALPUR
3. IZABUL ANSARI SON OF AHMAD ANSARI R/O VILLAGE-BARMASIA RAJGAON, P.S.- ISHIPUR, BARAHAT, DIST.-BHAGALPUR

... .. Appellant/s

Versus

1. THE STATE OF BIHAR PATNA
2. JITENDRA MURMU SON OF LATE BINOD MURMU R/O VILLAGE-BARMASIA, P.S.- ISHIPUR, BARAHAT, DIST.- BHAGALPUR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashutosh Kumar , Advocate
For the Respondent/s : Mr. Binay Krishna, SPP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 11-07-2024 Heard learned counsel for the parties.

2. This appeal has been filed for setting aside order dated 28.08.2023 , passed in a case registered for the offence punishable under sections 147, 148 , 149, 341, 323, 452, 307, 504, 506 and 34 of the Indian Penal Code and sections 3(i)(r) (s)/ 3(i)(s) / 4(i)(a) of the Scheduled Castes and Scheduled Tribes Act, whereby the prayer for anticipatory bail of the appellant has been rejected.

3. As per the prosecution case, on the alleged date



and time of occurrence, all the F.I.R., named accused persons including these appellants armed with sword, rod etc, entered the house of the informant and assaulted him and pulled him on the road with intention to kill him. It is further alleged that co-accused Samirun Nishan gave iron rod blow on the head of Shyamchad Mahto due to which his head got fractured. It is further alleged that appellant No. 2 on the point of gun forcibly tried to make him drink urine.

4. It is submitted on behalf of the appellants that specific accusation of assault is against other co-accused persons and so far as appellant Nos. 1 and 3 are concerned , there is general and omnibus allegation of assault against them. and no specific overt act has been alleged against him. Appellants claim clean antecedent.

5. Counsel for the Special PP opposed the prayer for bail and submitted that appellant No. 2, on the point of gun tried to administer urine to the informant.

6. Considering the fact that appellant No. 2, on the point of gun tried to administered urine to the informant, his prayer for appeal is hereby rejected.

7. Considering the fact that there is general and omnibus allegation of assault against appellant Nos. 1 and 3 ,



this appeal is allowed with respect to appellant Nos. 1 and 3 only and the impugned order is set aside. Let the appellant Nos. 1 and 3 , named above, in the event of arrest/surrender within a period of eight 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) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions judge – III-cum-Special Judge, SC/St Act, Bhagalpur in connection with Ishipur (Barahat) Police Station Case No. 87 of 2023 .

(Prabhat Kumar Singh, J)

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