

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5428 of 2023

Arising Out of PS. Case No.-146 Year-2023 Thana- SARMERA District- Nalanda

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1. GAUTAM YADAV Son of Narayan Yadav R/o vill - Badi Misiya, P.S. - Saramera, Distt. - Nalanda
 2. Kusha Yadav Son of Ramji Yadav R/o vill - Badi Misiya, P.S. - Saramera, Distt. - Nalanda

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Chandan Paswan Son of Ram Nandan Paswan R/o vill - Badi Misiya, P.S. - Saramera, Distt. - Nalanda

... .. Respondent/s

Appearance :

For the Appellants	:	Ms. Kumari Sujata Sinha, Advocate
For the State	:	Mr. Binay Krishna, , Spl.PP
For Respondent No. 2	:	N o n e

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 08-08-2024 Heard learned counsel appearing for the appellants and learned Special Public Prosecutor appearing for the respondent-State.

2. Despite valid service of notice, no body appears on behalf of Respondent No. 2.

3. This appeal has been filed for setting aside order dated 11.10.2023 passed in a case registered for the offence punishable under Sections 341, 342, 323, 325, 307, 379, 504 and 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the



prayer for anticipatory bail of these appellants has been rejected.

4. As per prosecution case, on 18.07.2023 at about 6 AM in the morning, while the informant along with his brother was going to Begusarai, in the meantime, all the F.I.R. named accused persons, including these appellants, surrounded them and abused by caste name. It is further alleged that Appellant No. 1 fired from his pistol upon the informant and co-accused Nitish Yadav assaulted them by means of iron rod and lathi.

5. It is submitted by learned counsel appearing on behalf of the appellants that though there is allegation of firing upon Appellant no. 1 but no one has sustained any fire arm injuries. So far as Appellant No. 2 is concerned, he is only alleged to be member of the mob. It is further submitted that it is not the case of the prosecution that any member of the public was present at the place of incidence and as such, no case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against these appellants. Appellants claim clean antecedents.

6. Learned Spl. P.P. appearing for the respondent-State has opposed the prayer for grant of bail to the appellants.

7. Considering the aforesaid facts and circumstances of the case, this appeal is allowed and the impugned order dated



11.10.2023 passed by the Court of learned Additional district and Sessions Judge 6th-cum-Special Judge, SC/ST Court, Nalanda at Bihar Sharif, in connection with A.B.P. No. 1584 of 2023 is hereby set aside with respect to these appellants only.

8. Accordingly, let the appellants, 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) each with two sureties of the like amount each to the satisfaction of learned Additional district and Sessions Judge 6th-cum-Special Judge, SC/ST (Prevention of Atrocities) Act, Nalanda at Bihar Sharif, in connection with Sarmera P.S. Case No. 146 of 2023.

(Prabhat Kumar Singh, J)

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