

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.153 of 2024

Arising Out of PS. Case No.-426 Year-2023 Thana- NAVINAGAR District- Aurangabad

1. Nausad Alam @ Nausad @ Md. Naushad son of Dr. Mubarak Hussain @ Mubarak Hussain VILLAGE- MANSURI MOHALLA WARD NO 9, NABINAGAR PS- NABINAGAR DISTRICT- AURANGABAD
2. Shahzad Alam @ Md. Shahzad Alam son of Dr. Mubarak Hussain @ Mubarak Hussain VILLAGE- MANSURI MOHALLA WARD NO 9 NABINAGAR DISTRICT- AURANGABAD
3. Mohammad Raju @ Tufail Hasrat @ Md. Tufail Hasrat son of Dr. Mubarak Hussain @ Mubarak Hussain VILLAGE- MANSURI MOHALLA WARD NO 9 NABINAGAR PS NABINAGAR DISTRICT- AURANGABAD
4. Mohammad Golden @ Saklend Haider @ Saklain Haider son of Dr. Mubarak Hussain @ Mubarak Hussain VILLAGE- MANSURI MOHALLA WARD NO 9 NABINAGAR PS- NABINAGAR DISTRICT -AURANGABAD
5. Chhotu @ Sakil Haider son of Dr. Mubarak Hussain @ Mubarak Hussain VILLAGE- MANSURI MOHALLA WARD NO 9 NABINAGAR DISTRICT- AURANGABAD
6. Dr. Mubarak Hussain @ Mubarak Hussain S/o- Late Md. Rajjak Miyan VILLAGE- MANSURI MOHALLA WARD NO 9 NABINAGAR PS- NABINAGAR DISTRICT-AURANGABAD
7. Md. Chintu Hussain @ Md. Rustam Alam S/o- Ajmal Hussain VILLAGE- MANSURI MOHALLA WARD NO 9 NABINAGAR PS- NABINAGAR DISTRICT-AURANGABAD
8. Md. Mintu Hussain @ Md. Afjal Hussain S/o- Ajmal Hussain VILLAGE- MANSURI MOHALLA WARD NO 9 NABINAGAR PS- NABINAGAR DISTRICT- AURANGABAD
9. Md. Golu Hussain @ Md. Ataur Rahman S/o- Tabarak Hussain VILLAGE- MANSURI MOHALLA WARD NO 9 NABINAGAR PS- NABINAGAR DISTRICT- AURANGABAD

... .. Appellant/s

Versus

1. The State of Bihar
2. Golden Das S/o- Late Nand Lal Das Mohalla- Ward No-3 Ps- Nabinagar Dist- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Krishna Pd. Singh, Sr.Adv. Mr. Bhaskar Shankar, Adv.
For the Respondent/s	:	Mr. Sadanand Paswan, Spl.P.P. Mr. Vishwa Ranjan Choudhary, Adv.



CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 29-08-2024 Heard learned senior counsel for the appellants, learned Special P.P. for of the State and learned counsel appearing on behalf of Respondent No. 2.

2. This appeal has been filed against the order dated 08.12.2023 passed by learned Special Judge (SC/ST)-cum-1st Addl. Sessions Judge, Aurangabad (Bihar) in connection with Nabinagar P.S. Case No. 426 of 2023, registered under Sections 147, 149, 448, 379, 427, 323, 325, 354, 504, 506, 120(B) of the Indian Penal Code and Section 3(1)(r)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short “SC/ST Act”), whereby the prayer for anticipatory bail of appellants has been rejected.

3. As per prosecution case, on the alleged date and time of occurrence, all the F.I.R. named accused persons including these appellants and 25-30 unknown persons, variously armed, abused informant by caste name and thereafter, assaulted him and his family members, as a result of which, they sustained injury. The accused persons also snatched Rs. 9500/- from the pocket of informant.

4. Learned counsel for the appellants submits that appellants have been falsely implicated in this case. The



allegation levelled against these appellants is general and omnibus in nature and no specific overt act has been alleged against them. As a matter of fact, informant is harassing the appellants since 2022, as he is filing false representations before the District Magistrate regarding alleged running of Ultrasound machine and x-ray machine without valid license and also threatening for rangdari for which, appellant no. 4 has already lodged Nabinagar P.S. Case No. 40 of 2022. There is delay of more than 3 months in lodging the present F.I.R. and there is no plausible explanation of delay. It is not the case of the appellants that at the time of alleged occurrence, any member of the public was present and as such, no offence under the SC/ST Act is made out against appellants. Though, as per F.I.R., there is injury, but there is no injury report on the record.

5. Learned Spl. Public Prosecutor for the State and learned counsel for the respondent no. 2 vehemently opposed the appeal.

6. However, considering the aforesaid facts and circumstances of the case as well as the rival submissions advanced on behalf of the parties, the impugned order dated 08.12.2023 is, hereby, set aside and this criminal appeal is allowed.



7. Let the appellants, as named above, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge (SC/ST)-cum-1st Addl. Sessions Judge, Aurangabad (Bihar) in connection with Nabinagar P.S. Case No. 426 of 2023.

(Prabhat Kumar Singh, J)

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