

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4249 of 2023

Arising Out of PS. Case No.-35 Year-2019 Thana- BARACHATTI District- Gaya

1. MANSUR AALAM @ MANSUR AKHTAR SON OF ABDUL KAUM ANSARI RESIDENT OF VILLAGE - SABAL BIGHA, P.S. - BARACHATTI, DISTRICT - GAYA
2. SUDDU @ SIDDI @ SHAHID PRAVEZ @ SUDDU MIYAN @ MD. SHAHID PARVEZ SON OF SAIDUL HAQUE RESIDENT OF VILLAGE - HUSEHNA, P.S. - BARACHATTI, DISTRICT - GAYA
3. RAJA ANSARI @ RAJA MIYAN @ RAJA SULTAN @ MD. RAJA SULTAN SON OF MD IQBAL @ IQBAL ANSARI RESIDENT OF VILLAGE - BUNDABIGHA, P.S. - BARACHATTI, DISTRICT - GAYA
4. MD. ALI IMAM @ ALI IMAM SON OF MD. IMRAN @ MD IRFAN RESIDENT OF VILLAGE - BUNDABIGHA, P.S. - BARACHATTI, DISTRICT - GAYA
5. DAMBAR MIYAN @ DAGBAR MIYAN @ JAFFAR HUSAIN @ JAFAR HUSAIN @ ZAFAR MIAN SON OF LATE ABDUL RAUF RESIDENT OF VILLAGE - SABAL BIGHA, P.S. - BARACHATTI, DISTRICT - GAYA
6. GULAM HAIDAR @ GULAM HAIDAR MIYAN SON OF ISHAK MIYA RESIDENT OF VILLAGE - SABAL BIGHA, P.S. - BARACHATTI, DISTRICT - GAYA
7. MD. NIZAM MIYAN @ NIZAMUDDIN ANSARI @ NEZAM MIYAN SON OF LATE MD. RAFIQUE RESIDENT OF VILLAGE - HUSEHNA, P.S. - BARACHATTI, DISTRICT - GAYA
8. KALLU MIYAN @ KALIM @ MD. KALIM @ MD. ZAHID HUSSAIN SON OF LATE JAMIRUDDIN RESIDENT OF VILLAGE - HUSEHNA, P.S. - BARACHATTI, DISTRICT - GAYA
9. MD. MIRAZ @ MD. MERAJ SON OF LATE SERAJUDDIN RESIDENT OF VILLAGE - SABAL BIGHA, P.S. - BARACHATTI, DISTRICT - GAYA
10. MUSTAKIM MIYAN @ MD. MUSTAKIM ANSARI @ MUSTAKIM ANSARI SON OF LATE HABIB MIYAN RESIDENT OF VILLAGE - HUSEHNA P.S. - BARACHATTI, DISTRICT - GAYA
11. RABBANI @ GULAB RABBANI @ MD. GULAM RABBANI SON OF RAHISH ANSARI RESIDENT OF VILLAGE - BUNDABIGHA, P.S. - BARACHATTI, DISTRICT - GAYA
12. GULAM SHAHID @ MD. GULAM SHAHID SON OF ABDUL HAKEEM RESIDENT OF VILLAGE - BUNDABIGHA, P.S. - BARACHATTI, DISTRICT - GAYA
13. MD. JAHID MIYAN @ MD JAHID HUSAIN @ MD JAHID SON OF GULAM HAIDAR RESIDENT OF VILLAGE - SABAL BIGHA, P.S. - BARACHATTI, DISTRICT - GAYA

... .. Appellant/s



Versus

1. THE STATE OF BIHAR
2. SONI DEVI WIFE OF DINESH PASVAN RESIDENT OF VILLAGE - MUSEHNA, P.S. - BARACHATTI, DISTRICT - GAYA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Praveen Kumar
For the Respondent/s : Mr. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 22-01-2025 1. Heard learned Counsel for the appellants, learned Counsel for the Opposite Party No. 2 and learned Additional Public Prosecutor for the State.

2. An order, dated 03.08.2023, passed, by learned Court of Exclusive Special Judge SC/ST, Gaya, in A.B.P. No. 257 of 2023, is under challenge in the present appeal preferred under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellants in connection with Barachatti P.S. Case No. 35 of 2019, registered for the offences punishable under Sections 147, 148, 149, 341, 323, 354, 504, 506, 295(A) of the Indian Penal Code and Section 3 (1)(r)(s) and 3 (2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

3. The prosecution case, as per the First Information Report, is that the informant objected Raja Ansari and Suddu



along with 10 other unknown person who were attending call of nature behind a Surya Temple where construction was also going on. They abused the informant with caste name and other villagers also objected in this regard. It has further been alleged that on 27.01.2019, at about 8:00 am, all the appellants, along with unknown persons, came and started assaulting. They all were carrying sharp cutting weapons. On 25.01.2019, a girl of village namely Anita Kumari was also molested by the boys of Bundabigha and they also assaulted the informant.

4. Learned counsel appearing on behalf of the appellants submits that the appellants have not committed any offence in the manner alleged and they have falsely been implicated in this case due to dirty village politics. There is no specific allegation against any appellant rather, all the allegations are general and omnibus in nature. It has come during the course of investigation that informant has not sustained any injury.

5. Having heard learned Counsel for the parties and taking into consideration the fact that the learned Special Court has taken cognizance under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, finding prima facie case against the appellants and in



view of the decision of the Supreme Court, in the case of Bachu Das v. The State of Bihar and Others, reported in (2014) 3 SCC 471, this appeal, for grant of anticipatory bail, is not maintainable.

6. Accordingly, this appeal is dismissed and the order, dated 03.08.2023, passed, by learned Court of Exclusive Special Judge SC/ST, Gaya, in A.B.P. No. 257 of 2023, is hereby affirmed.

7. However, it is made clear that if the appellants surrender and seek regular bail, the same shall be considered on its merit, if possible on the same date, without being prejudiced with the fact that this Court has dismissed the anticipatory bail application of the appellants as not maintainable.

(Anil Kumar Sinha, J)

HarshPandey/-

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