

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4877 of 2024

Arising Out of PS. Case No.-640 Year-2024 Thana- MAHUA District- Vaishali

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1. Md. Imran Ali @ Raju Barsi S/O Md. Ali Imam R/O Vill.- Mukundpur Pahad , ward no -23, P.S- Muhua, Dist .- Vaishali.
 2. Md. Shamsheer @ Md. Ashik S/o Md. Rabbani R/O Vill.- Mukundpur Pahad , ward no -23, P.S- Muhua, Dist .- Vaishali.
 3. Md. Ershad Ali S/O Ali Imam R/O Vill.- Mukundpur Pahad , ward no -23, P.S- Muhua, Dist .- Vaishali.
 4. Noor Alam S/O Lt. Md. Hanif R/O Vill.- Mukundpur Pahad , ward no -23, P.S- Muhua, Dist .- Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar
2. Umesh Paswan S/O Lt.Ram Avtar R/O Muhua Singh Ray , ward no -15, P.S- Muhua, Dist .- Vaishali.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Kumar Manglam, Advocate
For the Respondent/s	:	Mr.Binay Krishna, Spl. P.P.
For respondent no.2	:	Mr. Somesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 12-11-2025 Heard Mr. Kumar Manglam, learned counsel for the appellants and Mr. Somesh Kumar, learned counsel for respondent no.2.

2. This criminal Appeal has been preferred against the order dated 13.09.2024 passed in A.B.P. No. 2138 of 2024 by learned Exclusive Special Judge, SC/ST cum Additional District Sessions Judge, Vaishali at Hajipur, in connection with Mahua P.S. Case No. 640 of 2024 for the offences under sections 126(2), 191(2), 127(2), 115(2), 118(1), 303(2), 352,



351, 74, 76 of BNS and under sections 3(1)(r)(s) (w) of the SC/ST Prevention of Atrocities Act, whereby and where under the prayer for anticipatory bail of the appellants has been rejected.

3. As per the prosecution story, the informant alleged that a Tazia procession was going on and the people were present, witnessing it. In the meantime, allegation is that the appellant no.1, Imran Ali, who was brandishing sword put the same on the chest of a lady villager. As his indecent behaviour was opposed, the allegation is that the other accused persons also came there and after taking the caste name, assaulted which led to some of the villagers getting treated at Sub-Divisional Hospital. This led to the FIR.

4. Learned counsel for the appellants submit that the FIR is belated and is counter-blast to another case lodged by the accused side (appellant no.1) for an occurrence of the same day. None of the appellants have criminal antecedent and only to attract the SC/ST Act, the allegation of abuse of caste has been incorporated.

5. Learned counsel representing the respondent no.2 submits that the entire story started only after the appellant no.1, Md. Imran Ali chose to put the sword repeatedly on the chest of



one of the lady villager. The fact that a counter case also records the same date of occurrence, clearly show the genuineness of the present FIR.

5. Considering the submissions of the parties, so far as the allegation that has come against the appellant no.1, Md. Imran Ali @ Raju Barsi, no relief can be extended to him. The prayer for anticipatory bail against the appellant no.1, Imran Ali @ Raju Barsi stands rejected. So far as the other appellants, namely Md. Shamsheer, Md. Ershad Ali and Md. Noor Alam (appellant nos. 2 to 4 respectively) are concerned, taking into account the fact that prima facie occurrences do not qualify for attraction of the Act, omnibus allegation is against them, they have no criminal antecedent, in that background, this Court is inclined to extend them the privilege of anticipatory bail.

8. Accordingly, the order dated 13.09.2024 passed in A.B.P. No. 2138 of 2024 by learned Exclusive Special Judge, SC/ST cum Additional District Sessions Judge, Vaishali at Hajipur, in connection with Mahua P.S. Case No. 640 of 2024 is (except the appellant no.1 Imran Ali @ Raju Barsi) set aside.

9. The criminal appeal is partly allowed.

10. Let the appellants namely Md. Shamsheer, Md. Ershad Ali and Md. Noor Alam (appellant nos. 2 to 4



respectively) be released on bail, in the event of their arrest or surrender before the concerned court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each in connection with Mahua P.S. Case No. 640 of 2024 to the satisfaction of learned Exclusive Special Judge, SC/ST cum Additional District Sessions Judge, Vaishali at Hajipur, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also the other conditions.

(i) one of the bailor should be the family member/relative of the appellants, Md. Shamsher, Md. Ershad Ali and Md. Noor Alam who shall provide official document to show his/her bona fide;

(ii) the appellants, Md. Shamsher, Md. Ershad Ali and Md. Noor Alam shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the appellants, Md. Shamsher, Md. Ershad Ali and Md. Noor Alam shall co-operate in the investigation and make themselves available to the police as and when required;

(iv) the appellants, Md. Shamsher, Md. Ershad Ali and



Md. Noor Alam shall appear before the concerned police station every fortnight for next six months to mark their attendance and at the end of the period a certificate be submitted before the Trial Court failing which the State shall be at liberty to take steps for cancellation of bail bonds;

(v) the appellants, Md. Shamsher, Md. Ershad Ali and Md. Noor Alam shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(vi) the appellants, Md. Shamsher, Md. Ershad Ali and Md. Noor Alam shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

(Rajiv Roy, J)

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