

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4894 of 2021

Arising Out of PS. Case No.-87 Year-2021 Thana- BARGAINIA District- Sitamarhi

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1. RAJESHWAR RAI Son of Late Anup Rai Resident of Village - Joriyahi, Ward no.4, P.S.- Bairgania, Distt.- Sitamarhi.
 2. Sunil Kumar Son of Ram Udar Rai Resident of Village - Joriyahi, Ward no.4, P.S.- Bairgania, Distt.- Sitamarhi.
 3. Sangita Devi W/o Ram Udar Rai Resident of Village - Joriyahi, Ward no.4, P.S.- Bairgania, Distt.- Sitamarhi.
 4. Lav Kumar Son of Ram Pravesh Rai @ Ram Pravesh Yadav Resident of Village - Joriyahi, Ward no.4, P.S.- Bairgania, Distt.- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar
2. Shambhu Baitha Son of Late Timen Baitha Resident of village- Jorigahi, Ward no-04, P.S.-Bairgania, District-Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Devendra Kumar, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

9 30-03-2026 1. Heard learned counsel for the appellants and learned Spl. P.P. for the State, Mr. Sadanand Paswan.

2. The learned counsel for the appellants seeks permission to withdraw the appeal with respect to appellant no. 1 (Rajeshwar Rai) who died during pendency of the instant appeal.

3. Permission is accorded.

4. This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 30.10.2021 in A.B.P. No. 1450 of 2021 and 186 of 2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Sitamarhi in connection with Bairgania P.S. Case No. 87 of 2021 registered for the offences punishable under Sections 341, 323, 307, 504 and 34 of the Indian Penal Code as well as Sections 3(1)(r)(s) and 3(2)(va) of the SC/ST Act read with Sections 25(1-b)a, 26 and 35 of the Arms Act.

4. Learned counsel for the appellants submits that from perusal of the office report dated 13.10.2022, it would manifest that the notice was received by the wife of respondent no. 2. It is next submitted that a jointness application has been filed stating that respondent no. 2 is staying with his wife.

5. Since the jointness application has been filed, as such, the notice is deemed to be validly served.

6. The learned counsel for the appellants submits that appellant nos. 2 and 4 have antecedent of one case and appellant no. 3 is a person with clean antecedent and is a woman and the informant alleges that on 30.04.2021 at 04:00 PM, the accused persons including the appellants came on account of



previous land dispute and were pressurizing to compromise the earlier two criminal cases instituted by him, on objection Ram Udar Rai fired causing injury on his left elbow, thereafter Raju and Ram Pravesh assaulted his brother with lathi and iron rod causing injury on head, further Sachin and Lav assaulted his son Shashi by lathi while Sunil assaulted Anil by lathi on chest, thereafter, Anil along with Urmila snatched gun from Ram Udar and the same was kept by informant's wife and thereafter the accused fled.

7. Learned counsel for the appellants submits that appellants have been falsely implicated in the instant case by the informant. It is next submitted that from perusal of the allegation as alleged in the FIR, it would manifest that on account of dispute relating to land, the occurrence is alleged to have taken place. It is also submitted that side of the informant also assaulted the appellants and his side and accordingly Bairgania P.S. Case No. 88 of 2021 was instituted from side of the appellants against the informant and his side. It is also submitted that specific allegation of causing firearm injury is on Ram Udar Rai, but then Ram Udar Rai was acquitted in a duly constituted trial. It is next submitted that as far as appellants are concerned, the investigation against the appellants are still



continuing and charge sheet till date has not been filed. It is further submitted that no doubt allegation against the appellant no. 2 is of assaulting Anil by lathi on chest, but then there is no such injury caused to Anil and allegation of assault against Lav is not specific rather he is alleged to have assaulted Shashi along with Sachin by lathi and the said allegation is general and omnibus in nature. It is also submitted that if privilege of anticipatory bail is granted, the appellants will not abscond rather will cooperate in the investigation to prove their innocence.

8. Learned Spl. P.P. for the State opposes the appeal.

9. In view of the submissions made by the learned counsel for the appellants, the order dated 30.10.2021 in connection with Bairgania P.S. Case No. 87 of 2021, **is hereby set aside** and the appellants above-named, in the event of their arrest or surrender within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Bairgania P.S. Case No. 87 of 2021 subject to the conditions as



laid down under Section 482 (2) of the BNSS.

10. However, it is made clear that the learned Trial Court before accepting the anticipatory bail bonds of the appellants shall verify that as to whether charge sheet against the appellants has been submitted or not and in the event if it is found that charge sheet against the appellants has been submitted prior to 30.03.2026 in that event the present anticipatory bail order shall not be given effect to, but if it is found that charge sheet till date has not been submitted, in that event the anticipatory bail bonds of the appellants shall be accepted forthwith.

11. Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

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