

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5035 of 2024

Arising Out of PS. Case No.-210 Year-2023 Thana- RAXAUL District- East Champaran

1. Gulzar Miya @ Gulzar Hawari Son of Ish Mahmud Miya @ Ish Mohammad Miya Resident of Village- Sahdeva, P.S.- Raxaul, Distt.- East Champaran
2. Gulbas Miya @ Gulbas @ Gulbas Hawari Son of Ish Mahmud Miya @ Ish Mohammad Miya Resident of Village- Sahdeva, P.S.- Raxaul, Distt.- East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Chandan Kumar Ram Son of Ramayan Ram Resident of Village- Sahdeva Ward No. 08, P.S.- Raxaul, Distt.- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rahul Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 12-03-2026 Despite valid service of notice, none appears on behalf of the respondent no. 2.

2. Heard learned counsel for the appellants and the State.

3. This appeal has been filed against the order dated 21.08.2024 passed by learned Special Judge, SC/ST Act (POA), East Champaran, Motihar in ABP No. 3587 of 2024 arising out of Raxaul P.S. Case No. 210 of 2023 registered under Sections 147, 148 149, 341, 323, 354 (B), 504, 506, 337, 338, 427, 295(A), 153(A) and 379 of the Indian Penal Code and Sections 3(1)(r)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes



(Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of appellants has been rejected.

4. As per prosecution case, on the alleged date and time of occurrence, all the F.I.R., named accused persons, including these appellants, stopped the wedding procession of brother of informant and abused informant and others by caste name for playing music near mosque. It is further alleged that all the accused persons pelted stones and misbehaved with the female members and snatched gold chain and other valuable articles from them and also damaged vehicles of *barat*.

5. It is submitted on behalf these appellants that appellants are quite innocent and have committed no offence. As a matter of fact, dispute arose between the parties for playing music during *barat* party. Allegation of assault is general and omnibus and there is no allegation of any specific overt act against these appellants. It is not the case of prosecution that any member of public was present at the time of incident, as such, no case under SC/ST Act is made out. Rest of the allegations are ornamental only to make the case grave. Appellants claim clean antecedent.

6. Learned Spl. Public Prosecutor for the State vehemently opposed the bail application.



7. Considering the aforesaid facts, let the appellants, as named above, in the event of their arrest/surrender within a period of eight 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 Act (POA), East Champaran, Motihar in ABP No. 3587 of 2024 arising out of Raxaul P.S. Case No. 210 of 2023.

8. Accordingly, this criminal appeal is allowed and impugned order dated 21.08.2024 is set aside with respect to these appellants only.

(Prabhat Kumar Singh, J)

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