IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4459 of 2026

CNR No. BRHC011175212026

Arising Out of PS. Case No.-41 Year-2026 Thana- KUNAULI District- Supaul

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Bhushan Kumar Gold @ Bhushan Gold Son of Manoj Kumar Sah Resident of village-Kunauli, Ward No.09, Police Station-Kunauli, District-Supaul

... ... Appellant/s

Versus

1. The State of Bihar
2. Ashwini Kumar Ram Son of Late Shayam Lal Ram Resident of village-Gorsara ward no.02,P.S.-Nuawan, District- Kaimur(Bhabhua).

... ... Respondent/s

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with

CRIMINAL APPEAL (SJ) No. 3181 of 2026

CNR No. BRHC011175212026

Arising Out of PS. Case No.-41 Year-2026 Thana- KUNAULI District- Supaul

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Suraj Pandey S/o Ram Babu Pandey R/o Kunauli, ward no.6, P.S.- Kunauli, Distt.- Supaul

... ... Appellant/s

Versus

1. The State of Bihar
2. Ashwini Kumar Ram S/o Late Shyamlal Ram Presently posted as A.S.I. of P.S.- Kunauli, Dist.- Supaul

... ... Respondent/s

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Appearance :
(In CRIMINAL APPEAL (SJ) No. 4459 of 2026)
For the Appellant/s : Mr. Ranjay Kumar Singh, Advocate
For the Respondent/s : Ms. Usha Kumari 1, S.P.P.
(In CRIMINAL APPEAL (SJ) No. 3181 of 2026)
For the Appellant/s : Mr. Shailendra Kumar Singh, Advocate
For the Respondent/s : Ms. Usha Kumari 1, S.P.P.

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL ORDER

2 25-11-2026 Both the cases are taken up together as they arise out

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of same P.S. case.

2. Heard learned counsel for the appellants and learned Special Public Prosecutor for the State. No one appears on behalf of respondent number 2 despite issuance of the notice and valid service of process. However, since the respondent himself is a sub-inspector, the appearance of Special Public Prosecutor would suffice.

3. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of bail vide order dated 18.08.2026 passed by learned Additional District and Sessions Judge, 1st Cum Special Judge(SC/ST), Supaul, in connection with Kunauli P.S. Case No. 41 of 2026 registered under Sections 8(c), 21(b) and 25 of the N.D.P.S. Act, Sections 126(2), 115(2), 191(2), 191(3), 190, 109, 132, 121(1), 121(2), 262, 263 and 352 of the B.N.S.S., Act and Sections 3(1)(r)(s), 3(2)(va) of the SC/ST (POA) Act.

4. Recovery of 13.7 grams of smack like substance has been shown from beneath the fridge of the grocery shop of appellant Suraj Pandey of Cr. App. (SJ) No. 3181 of 2026 and the allegation on the other co-accused persons including the

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appellant Bhushan Kumar of Cr. App. (SJ) No. 4459 of 2026 is that they intercepted the police, interrupted the police action and facilitated the fleeing away of appellant Suraj Pandey.

5. Learned counsel for the appellants has submitted that the appellants have been made accused by the police on wrong notion and on wrong fact. Recovery of 13.7 grams of smack like substance has been shown from beneath the fridge of the grocery shop of appellant Suraj Pandey of Cr. App. (SJ) No. 3181 of 2026 and the allegation on the other co-accused persons including the appellant Bhushan Kumar of Cr. App. (SJ) No. 4459 of 2026 is that they intercepted the police, interrupted the police action and facilitated the fleeing away of appellant Suraj Pandey. With regard to appellant Bhushan Kumar, it has been submitted that there has been no recovery from his possession and he was apprehended by the police on the spot while he was also found to be a member of the mob. There are general and omnibus allegation of assault on about 14 persons causing simple injuries as would be evident from paragraph 83 of the case-diary. However, neither the informant nor any of the police personnel has even stated that they received any injury at the hands of the accused persons. Submissions made on behalf of the appellant Suraj Pandey is that the recovery of smack like

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substance which is a little over small quantity has been shown from his grocery shop which is an open space accessible to all. Further, such recovery was not made in the presence of any independent witness and there is no allegation of assault upon appellant Suraj Pandey. In the facts of the case, it has been submitted that no offence under Section 109 of the B.N.S. would be attracted and ornamental allegation under the SC/ST Act have been levelled. Furthermore, charge-sheet has already been submitted. While, appellant Suraj Pandey has clean antecedent, appellant Bhushan Kumar has been made accused in three cases in which he is already on bail. The appellant Bhushan Kumar is in custody since 10.05.2026, while appellant Suraj Pandey is in custody since 18.05.2026 on surrender. Charge-sheet has been submitted and they undertake to co-operate in the trial.

6. Learned Spl.P.P. for the State has opposed the bail application.

7. Taking into consideration the facts and circumstances and also considering the fact that the entire incident happened as a result of mob violence, recovery of contraband is just a little over small quantity without the presence of any independent witness, coupled with the fact that

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the chage-sheet has already been submitted, let the above named appellants, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge, 1st Cum Special Judge SC/ST, Supaul in connection with Kunauli P.S. Case No. 41 of 2026, with subject to further conditions:

(i) One of the bailors shall be a family member/close relative.

(ii) The appellants shall co-operate with the investigation/trial.

8. Accordingly, the impugned order is set aside and this appeal is allowed.

(Soni Shrivastava, J)

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