

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No. 1954 of 2021**

Arising Out of PS. Case No.-110 Year-2020 Thana- TARAPUR District- Munger

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1. Deepak Mandal, Male, aged about 22 years, Son of Pawan Mandal.
  2. Rohit Kumar @ Mukhiya Mandal, Male, aged about 20 years Son of Pawan Mandal.
  3. Tulsi Mandal Male, aged about 32 years, Son of Mahadev Mandal.
  4. Pawan Mandal, Male aged about 45 years, Son of Late Chakardhar Mandal.
  5. Badri Kumar Mandal @ Badri Nath Mandal, Male, aged about 35 years, Son of Laxman Mandal.
  6. Moti Mandal, Male, aged about 40 years, Son of Laxman Mandal.
  7. Nitish Kumar @ Nitish Mandal, Male aged about 20 years, Son of Moti Mandal.
- All residents of Village - Dadha Saraun (Kamargama), PS- Tarapur, District- Munger.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Vikram Deo Singh, Advocate  
For the State : Ms. Usha Kumari No. 1, Special PP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH  
ORAL JUDGMENT**

**Date : 04-10-2021**

Heard Mr. Vikram Deo Singh, learned counsel for the appellants and Ms. Usha Kumari No. 1, learned Special Public Prosecutor (hereinafter referred to as 'Special PP') for the State.

2. The instant appeal is directed against the order dated 21.08.2020, passed by the learned Additional Sessions Judge-I,



Munger in ABA No. 753 of 2020 by which the prayer for anticipatory bail of the appellants stand rejected.

3. The appellants apprehend arrest in connection with Tarapur PS Case No. 110 of 2020 dated 28.07.2020, instituted under Sections 147, 148, 149, 341, 323, 504, 506 of the Indian Penal Code, 1860 and 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'SC/ST Act').

4. As per the FIR, in a function due to music being played on high volume by the appellants, when they were asked to lower the volume, they are said to have abused the members of the prosecution party using caste name and thereafter also there being a free fight between the two sides resulting in injuries.

5. Learned counsel for the appellants submitted that the dispute basically was between the two sides for the reason that the prosecution side was objecting to the high volume of music being played by the appellants' side and despite them being requested to lower the volume, the same was not done. It was submitted that the allegation is general and omnibus in nature though it has been stated that the abuse had also been by using the caste word of the informant's side. Learned counsel submitted that the object of the SC/ST Act is to prevent any person not belonging to the SC/ST



category from committing atrocities against members of the SC/ST community only on the ground that they belonged to such reserved category. It was submitted that if in a general course of any dispute, some incident occurs, even if one of the parties belonged to the SC/ST category, *ipso facto*, the same would not lead to the matter coming under the preview of the SC/ST Act as has been held by the Hon'ble Supreme Court in **Khuman Singh v. State of Madhya Pradesh, AIR 2019 SC 4030**, the relevant being at paragraphs no. 3 and 11. It was submitted that there was also a counter version of the occurrence as one of the accused persons, namely Sintu Singh has lodged Tarapur PS Case No. 109 of 2020. It was submitted that similarly situated co-accused Sonu Mandal @ Sonu Kumar; Chandan Mandal @ Chandan Kumar Mandal and Jawahar Mandal, have been granted anticipatory bail by a co-ordinate Bench by order dated 14.07.2021 passed in Cr. Appeal (SJ) No. 1801 of 2021. Learned counsel submitted that the appellants have no other criminal antecedent.

6. Learned Special PP submitted that the appellants are alleged to have abused the informant's side by using their caste name. However, it was not controverted that the occurrence took place on the spur of the moment and the reason being that the



accused are said to have been playing music at the high volume which was objected by the informant's side.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the appellants being involved in an incident in which both the sides committed overt act and the reason being that the playing of music on high volume by the accused side was objected by informant side which was the genesis and cause of action, which does not indicate that the incident occurred only because of the caste identity of the informant side and the fact that they have no other criminal antecedent as also anticipatory bail having been granted by a co-ordinate Bench to similarly situated co-accused, the Court is inclined to allow the prayer for pre-arrest bail.

8. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the appellants be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge Ist, Munger in Tarapur PS Case No. 110 of 2020 subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the appellants, (ii) that the appellants and the



bailors shall execute bond and give undertaking with regard to good behaviour of the appellants and (iii) that they shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of their bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the appellants, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellants.

10. Accordingly, the order impugned is set aside and the appeal stands allowed.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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