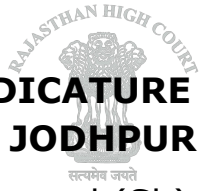




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



S.B. Criminal Appeal (Sb) No. 1601/2024

1. Mujammil Sher @ Janu Parshad S/o Mohammad Sher, Aged About 28 Years, R/o Mewati Mohalla Ward No. 20, Jahazpur, P.s. Jahazpur, Dist. Shahpura (At Present Lodged In Dist. Jail, Bhilwara)
2. Naeem Raja S/o Saleem Mohammad, Aged About 24 Years, R/o Gol Hathai Mohalla, Jahazpur, Ward No. 18, Jahazpur, P.s. Jahazpur, Dist. Shahpura (At Present Lodged In Dist. Jail, Bhilwara)
3. Asif Mohammad @ Monu Khatri S/o Noor Mohammad Panwar Deshwali, Aged About 19 Years, R/o Neem Ka Chowk Ganji Nagari Ward No. 17, Jahazpur, P.s. Jahazpur, Dist. Shahpur (At Present Lodged In Dist. Jail, Bhilwara)
4. Raees Mohammad S/o Naseer Khan Dekhwali, Aged About 32 Years, R/o Near Bank Of Baroda, Deoli Road, Ward No. 02, Jahazpur, P.s. Jahazpur, Dist. Shahpur (At Present Lodged In Dist. Jail, Bhilwara)
5. Saddam Hussain S/o Abdul Saleem Deshwali, Aged About 30 Years, R/o Kalyanpura Ward No. 01, Jahazpur, P.s. Jahazpur, Dist. Shahpura (At Present Lodged In Dist. Jail, Bhilwara)

-----Appellants

Versus

1. State Of Rajasthan, Through Pp
2. Jitendra Khateek S/o Chandra Khateek, R/o Jahazpur, Dist. Shahpura, Raj.

-----Respondents

Connected With

S.B. Criminal Appeal (Sb) No. 1605/2024

1. Saddam Mohammed S/o Shri Saddik Mohammed, Aged About 32 Years, R/o Aara Machine, Devali Road, Ward No. 02, P.s. Jahajpur, Jahajpur, Dist. Shahpura (At Present Confined In Shahpura Jail)
2. Saddam Hussain S/o Shri Abdul Kadir, Aged About 34 Years, R/o Near Jama Masjid, Ward No. 14, P.s. Jahajpur, Jahajpur, Dist. Shahpura (At Present Confined In Shahpura Jail)





3. Saddam Hussain S/o Shri Salim Mohammed, Aged About 31 Years, R/o Kile Ka Rasta, P.s. Jahajpur, Jahajpur, Dist. Shahpura (At Present Confined In Shahpura Jail)
4. Firoz Khan S/o Shri Mustak Mohammed, Aged About 31 Years, R/o Kile Ka Rasta, P.s. Jahajpur Jahajpur, Dist. Shahpura (At Present Confined In Shahpura Jail)
5. Sameer Mohammed @ Shami Mohammed @ Mohammed Shami S/o Shri Nazeer Mohammed, Aged About 20 Years, R/o Khohala Mohalla, P.s. Jahajpur, Jahajpur, Dist. Shahpura (At Present Confined In Shahpura Jail)
6. Hasan Hussain @ Mohaseen S/o Shri Ikram Hussain, Aged About 38 Years, R/o Harijan Mohalla, Ward No. 06, P.s. Jahajpur, Jahajpur, Dist. Shahpura (At Present Confined In Shahpura Jail)
7. Rashid Mohammed Neb @ Sethiya S/o Shri Gafoor Khan, Aged About 56 Years, R/o Bindi Gate Ke Bahar, Devali Marg, P.s. Jahajpur, Jahajpur, Dist. Shahpura (At Present Confined In Shahpura Jail)
8. Danish Tanwar S/o Shri Sharif Mohammed, Aged About 19 Years, R/o Gaji Nagri, Ward No. 05, P.s. Jahajpur, Jahajpur Dist. Shahpura (At Present Confined In Shahpura Jail)
9. Ahmed Hussain S/o Shri Abdul Gaffar, Aged About 18 Years, R/o Bud Ka Chowk Ward No. 05, P.s. Jahajpur, Jahajpur, Dist. Shahpura (At Present Confined In Shahpura Jail)
10. Sameer Shah S/o Shri Ajij Mohammed, Aged About 18 Years, R/o P.s. Jahajpur, Jahajpur, Dist. Shahpura At Present R/o Gadda Pahadiya, P.s. Kotwali, Tonk (At Present Confined In Shahpura Jail)

----Appellants

Versus

1. State Of Rajasthan, Through Pp
2. Jitendra Khatik S/o Shri Chandra Khatik, R/o P.s. Jahajpur, Jahajpur, Dist. Shahpura

----Respondents

S.B. Criminal Appeal (Sb) No. 1606/2024

Rizwan Mohammed @ Chakku S/o Shri Saleem Mohammed,



Aged About 33 Years, R/o Near Jama Masjid, P.s. Jahajpur,
Jahajpur, Dist. Shahpura (At Present Confined In Shahpura Jail)

----Appellant

Versus

1. State Of Rajasthan, Through Pp
2. Jitendra Khatik S/o Shri Chandra Khatik, R/o P.s.
Jahajpur, Jahajpur, Dist. Shahpura

----Respondents

S.B. Criminal Appeal (Sb) No. 1608/2024

Asif Mohammad S/o Shafi Mohammad, Aged About 33 Years, R/o
Badar Ali, Baba Road, Jahazpur, P.s. Jahazpur, Dist. Shahpura (At
Present Lodged In Dist. Jail Bhilwara)

----Appellant

Versus

1. State Of Rajasthan, Through Pp
2. Jintendra Khatik S/o Shri Chandra Khatik, R/o Jahajpur,
Dist. Shahpura

----Respondents

For Appellant(s)	:	Mr. Bhushan Singh Charan Mr. Usman Gani
For Respondent(s)	:	Mr. Sharwan Singh Rathore, PP Mr. Ravinder Singh Bhati, AGA Mr. Moti Singh for complainant

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

12/11/2024

The instant appeals have been filed under Section 14A SC/ST
(Prevention of Atrocities) Act on behalf of the appellants, who are in
custody in connection with F.I.R. No.333/2024, registered at Police
Station Jahazpur, District Shahpura, for the offences under Sections
126(2), 115(2), 131, 125-A, 190, 191(2), 191(3) 109(1), 196(2),
197(2), 299, 300 of BNS and Sections 3(1)(r), 3(1)(s), 3(2)(va) of



the SC and ST (Prevention of Atrocities) Act against the orders dated 09.10.2024 and 07.10.2024 passed by the learned Special Judge Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act Cases, Bhilwara whereby, the bail applications preferred under Section 439 Cr.P.C. on behalf of the appellants were rejected.

Heard learned counsel for the appellants and learned Public Prosecutor. Perused the material available on record.

As per the prosecution, the appellants in a pre-determined manner without any provocation had thrown stones and had also beaten the members of a religious procession passing on the occasion of *Jhaljholni Ekadashi* which was passing through the religious place situated near Jama Masjid. As per the prosecution, the appellants also used casteist slurges against the members of the religious procession.

Learned counsel for the appellants submitted that for the alleged incident which had occurred on 14.09.2024, cross FIRs Nos.336 & 337/2024 have been filed at P.S. Jahazpur, District Shahpura and therefore, there is a version and a cross-version of the incident. Learned counsel submitted that the appellants have been falsely implicated in the present case. A group of people is alleged to have attacked the religious procession and, therefore, it is imperative on the part of the Investigating Agency to separate innocent persons from the real culprits of the incident. The possibility of the appellants being a part of the large number of people who had gathered to see the religious procession peacefully cannot be ruled out at this stage. The allegations of the



appellants uttering casteist remarks/slurges have been levelled without any cogent evidence available on record.

Lastly, learned counsel for the appellants submitted that in the alleged incident which occurred on 14.09.2024, the injuries allegedly caused to the members of the religious procession are simple in nature. In another FIR No.334/2024 lodged at P.S. Jahazpur, District Shahpura for similar offences the appellants have already been enlarged on bail. The appellants are in judicial custody and the trial of the case will take sufficiently long time, therefore, the benefit of bail should be granted to the accused-appellants.

Per contra, the learned Public Prosecutor as well as the learned counsel for the complainant have vehemently opposed the bail application. Learned counsel submitted that the appellants are responsible for spreading hatred against a particular community and causing hindrance in their peaceful procession in a pre-determined manner. Learned counsel submitted that looking to the seriousness and accusations levelled against the present appellants, they do not deserve to be enlarged on bail.

Having considered the rival submissions, facts and circumstances of the case, this Court *prima facie* finds that the investigation in relation to the cross FIRs Nos. 336 & 337/2024 is being conducted by the Investigating Agency. *Prima facie* there is a version and a cross-version of the incident which occurred on 14.09.2024. The appellants have already been granted bail by the competent criminal Court in relation to FIR No.334/2024 lodged at P.S. Jahajpur. The injuries allegedly caused by the appellants to



the members of the religious procession are simple in nature. This Court further finds that presently, it is very difficult to reach to a conclusion as to whether the appellants were mere onlookers or the real culprits, particularly, when no case of similar nature is pending against the appellants. Thus, without expressing any opinion on merits/demerits of the case, this Court is inclined to enlarge the appellants on bail.

Consequently, the instant appeals are allowed. The impugned orders dated 09.10.2024 and 07.10.2024 passed by the learned Special Judge Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Cases, Bhilwara are set aside. It is ordered that the accused-appellant 1- **Mujammil Sher @ Janu Parshad S/o Mohammad Sher**, 2- **Naeem Raja S/o Saleem Mohammad**, 3- **Asif Mohammad @ Monu Khatri S/o Noor Mohammad Panwar Deshwali**, 4- **Raes Mohammad S/o Naseer Khan Dekhwali**, 5- **Saddam Hussain S/o Abdul Saleem Deshwali**, 6- **Saddam Mohammed S/o Shri Saddik Mohammed**, 7- **Saddam Hussain S/o Shri Abdul Kadir**, 8- **Saddam Hussain S/o Shri Salim Mohammed**, 9- **Firoz Khan S/o Shri Mustak Mohammed**, 10- **Sameer Mohammed @ Shami Mohammed @ Mohammed Shami S/o Shri Nazeer Mohammed**, 11- **Hasan Hussain @ Mohaseen S/o Shri Ikram Hussain**, 12- **Rashid Mohammed Neb @ Sethiya S/o Shri Gafoor Khan**, 13- **Danish Tanwar S/o Shri Sharif Mohammed**, 14- **Ahmed Hussain S/o Shri Abdul Gaffar**, 15- **Sameer Shah S/o Shri Ajij Mohammed**, 16- **Rizwan Mohammed @ Chakku S/o Shri Saleem Mohammed** and 17- **Asif Mohammad S/o Shafi**



Mohammad arrested in connection with F.I.R. No.333/2024, registered at Police Station Jahazpur, District Shahpura, shall be released on bail; provided he furnishes a personal bond of Rs. 1,00,000/- and two surety bonds of Rs. 50,000/- each to the satisfaction of the learned trial Court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.

A copy of this order be placed in each file.

(KULDEEP MATHUR),J

221-224-TarunGoyal/-