

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.626 of 2016

Arising Out of PS.Case No. -15 Year- 2016 Thana -KAMTAUL District- DARBHANGA

Radhey Yadav son of Bhag Narayan Yadav, resident of village- Bhamarpura, P.S.-
Jale, District- Darbhanga.

.... Appellant

Versus

The State of Bihar

.... Respondent

Appearance :

For the Appellant/s : Mr. Krishna Chandra, Advocate

For the Respondent/s : Mr. Sujit Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 06-10-2016

Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and learned counsel for the
informant.

2. This appeal under Section 14-A(2) of the
Scheduled Castes and the Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (for short 'SC/ST Act') has been filed against
the order dated 30.07.2016 passed by the learned 1st Additional
Sessions Judge, Darbhanga in B. P. No. 510 of 2016 whereby the
bail application of the appellant in connection with Kamtaul P. S.
Case No. 15 of 2016 registered under Sections 147, 148, 149, 341,
323, 325, 506, 354, 436 and 427 of the Indian Penal Code and
Section 3(1)(x) of the SC/ST Act has been rejected.



3. It is contended by the learned counsel for the appellant that the Investigating Officer seems to be not aware about the charges introduced in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act by the Amendment Act, 2015. The FIR has been instituted under Section 3(1)(x) of the SC/ST Act. As a matter of fact, after the Amendment Act, 2015 came into force the alleged offence would attract the ingredients of Section 3(1)(s) and not 3(1)(x) of the Act. It is further contended that the entire allegation made in the FIR is false and fabricated. The Investigating Officer has not seized any burnt article from the place of occurrence. The alleged incident took place due to long standing land dispute between the parties and the victims have sustained only minor and superficial injuries. It is also contended that one of the co-accused, namely, Nathuni Ydav, having more or less identical allegation has already been granted bail by a co-ordinate Bench of this Court vide order dated 14.07.2016 passed in Cr. Misc. No. 27952 of 2016 and several other co-accused persons have been granted bail by the court below itself.

4. On the other hand, learned Special Public Prosecutor for the State has opposed the application for grant of bail to the appellant. He has submitted that there is neither any illegality nor infirmity in the impugned order passed by the court

below. The witnesses examined during investigation have corroborated the allegations made in the FIR. However, he concedes that several other co-accused have been granted bail either by this Court or by the court below.

5. Learned counsel for the informant has opposed the application for grant of bail to the appellant.

6. Regard being had to the facts of the case in totality of the circumstances, the impugned order dated 30.07.2016 passed by the learned 1st Additional Sessions Judge, Darbhanga in B. P. No. 510 of 2016 is set aside. The appellant is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Darbhanga in connection with Kamtaul P. S. Case No. 15 of 2016.

7. The appeal stands allowed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	
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