

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.891 of 2016

Arising Out of PS.Case No. -78 Year- 2016 Thana -RUPAULI District- PURNIA

1. Md. Daud son of Late Md. Abbas
2. Md. Babua alias Md. Babuwa son of Md. Jashim
Both resident of Village- Rupauli, P.S.- Rupaul, District- Purnea.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Ram Prawesh Kumar

For the Respondent/s : Mr. Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

3 19-11-2016 Heard learned Counsel for the appellants and learned Additional Public Prosecutor appearing on behalf of the State.

This appeal has been filed, under Section 14-A(2) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015, challenging the order, dated 09.09.2016, passed by the learned 1st Additional Sessions Judge –cum- Special Judge, Purnea, whereby the appellants’ prayer for bail, in connection with Special Case No. 50 of 2016, arising out of Rupauli Police Station Case No. 78 of 2016, has been rejected.

The appellants are in custody since 18.05.2016

in connection with the said Rupauli Police Station sCase No. 78 of 2016.

It is alleged against the appellants that they entered into the house of the informant and whereas, the appellant no. 1 attempted to commit rape on the informant, when her niece came to her rescue, appellant no. 2 attempted to commit rape on her niece.

It is also alleged that the appellants abused the informant by taking her caste name.

Learned Counsel for the appellants has submitted that the manner of occurrence, as alleged in the First Information Report, is highly improbable. According to him, it is not readily acceptable that two persons will enter into the house of the informant and they will start making attempts to commit rape on two females. According to him, the implication of the appellants, in the present case, is because of the previous enmity, which fact has come in course of investigation also.

From the case diary, it appears that the materials, collected in course of investigation, suggest that there was previous enmity between the appellants and informant's families.

Considering the above submission, I am of the considered view that it is a fit case in which the learned

Court below ought to have exercised discretion of granting bail to the appellants. That having not been done, the order, dated 09.09.2016, passed, by the learned 1st Additional Sessions Judge –cum- Special Judge, Purnea, in Special Case No. 50 of 2016, arising out of Rupauli Police Station Case No. 78 of 2016, is hereby set aside.

This appeal is allowed.

Let the appellants, namely, Md. Daud and Md. Babua @ Md. Babuwa, be released 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 1st Additional Sessions Judge –cum- Special Judge, Purnea, in connection with Special Case No. 50 of 2016, arising out of Rupauli Police Station Case No. 78 of 2016.

This is subject to the condition that the appellants shall present themselves before the police/Court, as the case may be, as and when required and in the event of failure on their part to appear before the Court on two consecutive occasions, their bail bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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