

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.415 of 2017

Arising Out of PS.Case No. -75 Year- 2016 Thana -PIPRAHI District- SHEOHAR

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1. Prabhu Paswan, S/o Sri Rambriksh Paswan, R/o village - Devkuli
Dharmpur, P.S. Piprahi, District - Sheohar

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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with

Criminal Appeal (SJ) No.1121 of 2017

Arising Out of PS.Case No. -75 Year- 2016 Thana -PIPRAHI District- SHEOHAR

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1. Ram Nath Paswan Son of Sahdeo Paswan, resident of village - Dekuli
Dharampur, P.S. Piprahi, District - Sheohar

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

(In CR. APP (SJ) No.415 of 2017)

For the Appellant/s : Mr. Dharmendra Kumar Paswan

For the Respondent/s : Smt. Usha Kumari No. 1

(In CR. APP (SJ) No.1121 of 2017)

For the Appellant/s : Mr. Ashhar Mustafa

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 20-06-2017 Since both the appeals arise out of same p.s. case

number, they are clubbed together and are being decided by this

single order for the sake of convenience.

The appellants in both the above mentioned appeals seek

regular bail in connection with Piprahi P.S. Case No. 75 of 2016

registered for offences punishable under Sections 302, 34 Indian



Penal Code and Section 2(i)(v) SC/ST (Prevention of Atrocities) Act.

It has been submitted on behalf of the appellant, namely, Prabhu Paswan in Criminal Appeal (SJ) No. 415 of 2017 that save and except the confessional statement of co-accused, there is nothing against this appellant to connect him with the present case and though it is alleged that one *dabiya* has been recovered from the house of this appellant, however the same has been recovered on the confessional statement of the said co-accused and except that there is nothing against this appellant and he has been languishing in judicial custody for last eight months.

So far appellant, namely, Ram Nath Paswan in Criminal Appeal (SJ) No. 1121 of 2017 is concerned, it has been submitted by learned counsel for the appellant that against this appellant also save and except confessional statement, there is nothing against him so as to show his complicity in the present case. Nothing has been recovered either from his possession or from his house and he has been in judicial custody for last five months.

Heard learned A.P.P. and learned counsel for the informant. They have opposed the prayer for bail. Learned counsel for the informant has submitted that these appeals are not maintainable as the cognizance has not been taken under Section



2(i)(v) SC/ST (Prevention of Atrocities) Act and cognizance has been taken only under Section 302/34 Indian Penal Code.

From perusal of the record, it appears that when the appeal was filed charge-sheet was not submitted as such against impugned order present appeals have been preferred by the above appellants and, therefore, there is no illegality in the filing of criminal appeal.

Coming to the merit of the appeal, considering the facts and circumstances of the case, it appears that save and except confessional statement there is nothing against the appellants and though it is alleged that from the house of appellant, namely, Prabhu Paswan, one Dabiya has been recovered, however the same has been recovered on the confession of co-accused and except that there is nothing against this appellant also, as such, this appeal is allowed, let the appellants, in both the above mentioned appeals, be released on bail on furnishing bail bonds of Rs. 25,000 (Rs. Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned District & Sessions Judge -1st-cum- Special Judge, SC/ST, Sheohar in connection with Piprahi P.S. Case No. 75 of 2016, with following conditions:-

- (i) One of the bailors of the appellants shall be a local person having sufficient immovable



property within the jurisdiction of the concerned Court.

- (ii) The appellants will not induce any witness or tamper with the evidence.
- (iii) The appellants shall cooperate in the disposal of trial and make themselves available as and when required by the court and on the event of failure on their part two appear before the court below on two consecutive dates without showing any genuine reasons, the prosecution will be free to move for cancellation of their bail bonds.

(Vinod Kumar Sinha, J)

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