IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1604 of 2017

Arising Out of PS.Case No. -32 Year- 2016 Thana -JADIA District- SUPAUL

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1. Hare Krishna Mandal, Son of Late Ravi Mandal, Resident of Village- Belahi, P.S.- Marauna, District- Supaul, at present Headmaster in Upgraded Middle School, Bishrampur, District- Supaul.
2. Shyam Narayan Poddar, Son of Late Bachchalal Poddar, Resident of Village- Parsa Garhi, P.S.- Jadia, District- Supaul, at present Assistant Teacher, Upgraded Middle School, Bishrampur, District Supaul,
3. Ramesh Mehta, Son of Dhaniklal Mehta, Resident of Village- Parsa Garhi, P.S.- Jadia, District- Suppul.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Ashok Kumar Mishra
For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 26-07-2017 The appellants seek pre arrest bail in connection with Jadia P.S. Case No. 32 of 2016, registered for offences punishable under Sections 341, 323, 504, 353 and 34 of Indian Penal Code and Section 3(i)(x) of SC/ST(POA) Act.

Allegation against the appellants that they abused the informant by caste name and also assaulted him.

It has been submitted on behalf of the appellants that out and out false and fabricated case has been lodged against the appellants. Further only general and omnibus allegation of abusing the informant has been levelled against the appellant nos. 1 and 2 and so far appellant no. 3 is concerned no allegation of assault or abusing the informant has been levelled. Further there is case and

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counter case between the parties. It has also been submitted that from perusal of F.I.R itself it will appear that the dispute does not relate to SC/ST (POA) Act.

Heard learned Special P.P. also.

Having heard both sides, in view of the fact and circumstances stated above, so far appellant nos. 1 and 2 are concerned, a *prima facie* case under the above mentioned Section of SC/ST Act is made out against the appellant nos. 1 and 2 as such, this appeal with regard to appellant nos. 1 and 2 is not maintainable.

Let appellant nos. 1 and 2 surrender before the special court and make prayer for regular bail and if any such application is filed, the special court after considering the submission of learned counsel for the appellant nos. 1 and 2 that that there is case and counter case between the parties and other materials available on record, shall pass an appropriate order, preferably on the same day, without being prejudiced by the order of this Court.

So far appellant no. 3, is concerned, considering the facts and circumstances and nature of allegation, this appeal with regard to appellant no. 3, is allowed, let the appellant above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bond of Rs. 25,000

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(Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-V, Supaul in connection with Jadia P.S. Case No. 32 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. This is further subject to the condition that:-

(i) One of the bailors of the appellant shall be a local person having sufficient immovable property within the jurisdiction of the concerned Court.

(ii) The appellant shall cooperate in the investigation and make himself available as and when required by the police and on the event of failure on his part two appear before the police on two consecutive dates without showing any genuine reasons, the prosecution is free to move for cancellation of his bail bonds.

With the above observation, this appeal is disposed of.

(Vinod Kumar Sinha, J)

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