

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.470 of 2019

Arising Out of PS. Case No.-49 Year-2018 Thana- THAKURGANJ District- Kishanganj

1. Md. Shamsheer @ Shamsheer Alam @ Md. Shamsheer @ Md. Shahansha @ Shahansha, age 26, Male, Son of Ajajul @ Md. Azizul
2. Ajajul @ Md. Azizul @ Azizul, 56 (Male), Son of Late Alauddin
Both residents of Village - Dogachhi, P.S. - Thakurganj, District - Kishanganj.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Firoz Ahmad
For the Respondent/s	:	Ms. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

3 12-03-2019 Heard learned counsel for the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail by order dated 10.01.2019 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST Act), Kishanganj in connection with B.P. No.510 /18 arising out of Thakurganj P.S. Case No.49/18 registered under Sections 328, 302, 34 of the Indian Penal Code and Sections 3(2)(va)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Informant has alleged that on the date of occurrence,



the appellants were spraying pesticide in his banana's field and, thereafter, they washed their hands on the informant's hand pump in his courtyard and he stored water in the old iron gamla below the hand pump and they went away. Later on, informant's son came and drunk the water which was stored in the old iron gamla and the boy started vomiting and on the way for treatment to Thakurganj hospital, the informant's son died.

It has been submitted on behalf of the appellants that they are innocent and have falsely been implicated in this case due to enmity arising out of banana field of the appellants beside the informant's house and his inmates used to destroy the banana crop by animals for which appellants stopped them. It has further been submitted that there was no intention to kill the informant's son as such no case under Section 302 IPC is made out and at best, it is a case under Section 304A of IPC.

Considering the aforesaid facts and circumstances of the case, let the appellant named above be released on bail upon furnishing bail bond of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with the aforesaid case, with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the



court concerned.

(2) Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the court below.

(3) If the appellants tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the appellants.

Accordingly, the impugned order is set aside and this appeal stands allowed.

(S. Kumar, J)

Sanjay/-

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