

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2455 of 2019

Arising Out of PS. Case No.-289 Year-2017 Thana- SIMRI District- Buxar

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1. Hari Shankar Yadav Son of Late Nand Gopal Yadav Resident of Village - Simri Khairapatti, P.S. - Simri, District - Buxar.
 2. Shambhu Yadav Son of Late Nand Gopal Yadav Resident of Village - Simri Khairapatti, P.S. - Simri, District - Buxar.
 3. Sawaru Yadav Son of Late Dadan Yadav Resident of Village - Simri Khairapatti, P.S. - Simri, District - Buxar.
 4. Jai Shankar Yadav Son of Late Dadan Yadav Resident of Village - Simri Khairapatti, P.S. - Simri, District - Buxar.
 5. Ramakant Yadav Son of Late Shivmuni Yadav Resident of Village - Simri Khairapatti, P.S. - Simri, District - Buxar.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Vinod Kumar

For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

5 11-09-2019 Heard learned counsel for the appellants, learned counsel for the informant and learned Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 25.04.2019 passed by learned Additional



Sessions Judge-I-Special Judge, Buxar in connection with Simri P.S. Case No.289 of 2017 registered under Section 302/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r)(s) and 3(2)(v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Son of the informant is said to have been gunned down by some miscreants, while he was sleeping on the loft. The bone of contention is said to be that the cow of Hari Shankar Yadav was grazing his maize field, whereupon the deceased and one Umesh Ram made the cow escaped assaulting by lathi which was followed by altercation between the appellants and his son and extending threatening of dire consequences by them to his son two months back. Four days prior to the aforesaid occurrence, the appellants were also spotted in the vicinity of the loft in the night by the son of the informant. The informant suspects the complicity of the appellants in the occurrence due to previous dispute.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. As a matter of fact, the appellants have lodged a case under Section 302 of the Indian Penal Code against Vijay Shankar Pandey and others, who got this case lodged through



the informant who happens to be their bataidar after seven hours by falsely implicating the appellants in the aforesaid occurrence. The allegation levelled against the appellants is not specific rather general and omnibus in nature. There is no eyewitness of the alleged occurrence. No one has seen the appellants in the vicinity of the place of occurrence. There is no cogent incriminating circumstances on record indicating the complicity of none else than appellants in the occurrence. The doctor has found only one injury on the head of the deceased and the assailant of the said injury is not ascertained. The appellants have no criminal antecedent barring one Excise case against the appellant no.1, in which he is on bail.

Learned counsel for the informant and learned Spl. PP for the State opposing the prayer for bail submitted that all the appellants committed murder of the son of the informant while he was sleeping on the loft due to grudge and previous animosity between them. The appellants were also spotted by the deceased in the vicinity of the place of occurrence four days preceding to occurrence, hence they do not deserve bail.

In the facts and circumstances of the case, the above named appellants, in the event of their arrest or surrender before the learned court below within a period of six weeks from today,



be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I-Special Judge, Buxar in connection with Simri P.S. Case No.289 of 2017, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

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

(Prakash Chandra Jaiswal, J)

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