

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4704 of 2019

Arising Out of PS. Case No.-231 Year-2019 Thana- BANIAPUR District- Saran

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1. DAHARI RAM, Male, aged about 60 years, Son of Late Adalat Ram Resident of Village- Pithauri Nandlal Tola, P.S- Baniyapur, District- Saran.
 2. Satya Narayan Ram, Male, aged about 58 years, Son of Late Adalat Ram Resident of Village-Pithauri Nandlal Tola, P.S-Baniyapur, District-Saran.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Mukesh Kumar Singh, Advocate
For the Respondent/s : Mr.Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 05-12-2019 Heard learned counsel for the appellants, learned counsel for the informant and learned Additional Public Prosecutor for the State.

The appellants, in the present case, are seeking regular bail against the order dated 04.10.2019 passed by the learned Additional District & Sessions Judge, 1st, Special Judge, SC/ST, Saran, Chapra in connection with Baniyapur P.S. Case No. 231/2019 registered under Sections 147/148/149/341/323/302/ 504/506 of the Indian Penal Code and Section 3(i)(s) of SC/ST Act.

Learned counsel for the appellants submits that as per the prosecution report while the bother of the



informant and two others were going on a Pick-Up Van after loading animals, they were stopped near Nand Lal Tola, these appellants who are named amongst the eight accused persons in the F.I.R. along with 50 – 100 unknown persons stopped them, abused and assaulted them with iron rod, lathi and other weapons as a result of which all the three persons died.

Learned counsel for the appellants submits that so far as these two appellants are concerned, they are being falsely implicated in this case, they happened to be the resident of that Tola. Learned counsel submits that in course of investigation, although charge-sheet has been filed but the Investigating Officer has not been able to collect any material against these appellants. In video footage which has been taken note of by the Investigating Officer in para '49' of the case diary, four persons have been specifically named as those who were assaulting the deceased, these appellants have not been seen in the said video footage.

The informant has stated in course of



investigation that his brother had given a mobile call and had asked him to come soon but it is not the case of the informant that his brother who died later on had disclosed the name of these appellants.

Learned counsel further submits that there is no independent eye witness to the alleged occurrence and even hearsay witness has not disclosed as to who has taken the name of these appellants.

Learned A.P.P. as well as learned counsel representing the informant have opposed the prayer for regular bail of these appellants, however learned counsel for the informant while opposing this appeal has disclosed that an F.I.R. was lodged by the person whose cattle was being allegedly stolen away and in the said F.I.R. he had disclosed the name of some persons who had assembled on his call but there also learned counsel has submitted that the name of these appellants have not come as the person who came on the call of the informant.

Having heard learned counsel for the appellants and learned counsel for the informant as also learned



A.P.P. for the State, taking note of the submissions and the materials on the record, this court is of the view that in the nature of the materials collected by the Investigating Officer as have been pointed out by learned counsel for the appellants and have been taken note of hereinabove, these appellants against whom the investigation is complete, there is no eye witness and no source of identification has been disclosed, are required to be released on bail.

Let the impugned order in so far as it relates to the appellants is hereby set-aside. The appellants are directed to be released on bail furnishing bail bond of Rs. 15,000/- (Rupees Fifteen Thousand only) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge/Special Judge, SC/ST, Saran, Chapra, in connection with Baniyapur P.S. Case No. 231/2019, subject to the condition as laid down under Section 437(3) Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this



Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer or tamper with the evidence.

(Rajeev Ranjan Prasad, J)

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