

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3581 of 2018

Arising Out of PS. Case No.-218 Year-2018 Thana- HAJIPUR District- Vaishali

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1. Amit Kumar son of Jawahir Singh.
 2. Prince Kumar son of Nathuni Bhagat
- Both are residents of village Paigambarpur Gorigama, P.O. Sondha, P.S. Goraul, District Vaishali.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Awadhesh Kumar Singh
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

9 11-02-2019 Heard learned counsel for the Parties.

This is an appeal under Section 14(A)(2) of SC & ST (Prevention of Atrocities) Amendment Act, against the refusal of prayer for bail by order dated 10.08.2018 passed by learned Additional Sessions Judge-I, Vaishali at Hajipur, in Hajipur Nagar P.S. Case No. 218 of 2018 registered under Sections 302, 353, 224, 120B/34 of the Indian Penal Code and 27 of Arms Act and U/s 3(2)(va) SC/ST Act.

Informant Constable Rabindra Kumar Singh has alleged in his written complaint that on 03.04.2018 at about 9.00 AM he and Hawaldar Ram Ekbal Ravidas had gone to Juvenile court for production of accused Prince Kumar son of Nand Kishore Singh and while they were returning three unknown



criminals tried to set free prisoner Prince Kumar and fired in the air but Hawaldar Ram Ekbal Ravidas resisted and did not let prisoner to flee whereupon prisoner Prince Kumar took pistol from one unknown criminal and fired upon Hawaldar Ram Ekbal Ravidas and fled away. Hawaldar Ram Ekbal Ravidas was taken to Hospital where he was declared brought dead.

Appellants were apprehended on 06.04.2018 in this case on the basis of information given by the Spy and they were apprehended with motorcycle by the police and confessional statement of appellant No. 1 Amit Kumar was taken in which he confessed his guilt and also the guilt of appellant No. 2. According to his confessional statement he (Amit Kumar) accused Sakaldeep, accused Uma Shankar, accused Sujeet Kumar @ Apachy and accused Prince variously armed were present on the ground floor of juvenile court whereas accused Vivek Ray @ Bhakku and two other accused kept their motorcycle in start condition on the Kachhari road, so that after freeing prisoner Prince Kumar, all accused could flee away and as per plan as prisoner Prince Kumar reached the ground floor, prisoner Prince Kumar took the pistol of accused Sakaldeep and fired upon Hawaldar, as a result of which he fell down and thereafter on three motorcycles they fled away. There were



altogether eight persons involved in committing this crime. Three were in juvenile court, three were on Kachhari road on motorcycle and two were watching police movement.

Accused Sakaldeep who was arrested in Arms case on 08.04.2018 alongwith accused Uma Shankar with arms confessed of committing this crime and the pistol used for committing this crime was also recovered and seized. In his confession on 08.04.2018 he confessed that he (Sakaldeep), Uma Shankar, Prince, Sujeet Kumar @ Apachy and Amit Kumar were on the ground floor and Vivek @ Bhakku, Rakesh and Manish were on the Kachhari road and kept their motorcycle in start condition and when prisoner Prince Kumar was being taken back after production before the juvenile court then Amit and Sujeet Kumar @ Apachy fired in the air to terrorize the police and prisoner Prince took his pistol and fired upon Hawaldar and Sujeet Kumar @ Apachy also fired, as a result he fell down and all of them fled away.

It has been submitted on behalf of appellants that as per FIR there were three persons present on the ground floor of juvenile court who committed this crime and appellants have been falsely implicated in this case. Name of appellant No. 2 is Prince Kumar although parentage is different. Even, if



confession is to be believed then allegation of firing is against Sakaldeep and Sujeet Kumar @ Apachy and accused Sujeet Kumar @ Bhuila was arrested on 14.04.2018 and confessed his guilt and stated that he was present at Gandhi Chowk and prisoner Prince Kumar also took pistol from Sakaldeep and fired upon Hawaldar Ravidas who subsequently died.

There is no allegation against appellants of causing firing, even, at the time of arrest nothing was recovered from the possession of appellants and they were implicated only on suspicion.

It has been submitted on behalf of appellants that finding recorded by the Session Judge that on confessional statement of co-accused Sujeet Kumar used revolver was recovered from the house of appellant Prince Kumar @ Abhijit Kumar as well as in para 205 criminal antecedent has been stated to be of appellant No. 1 and 2 is error of record. The used revolver was recovered on the confessional statement of co-accused Sakaldeep and in para 205 criminal antecedent is of prisoner Prince Kumar @ Abhijit Kumar and not of appellants.

It has been further submitted that similarly placed co-accused, namely Sujeet Kumar @ Bhuila and Rakesh Paswan @ Rakesh Kumar have been granted bail by a co-ordinate Bench of



this Court vide order dated 26.11.2018 passed in Cr. Appeal (SJ) No. 3260 of 2018 and vide order dated 07.12.2018 passed in Cr. Appeal (SJ) No. 4073 of 2018 respectively.

Appellant No. 1 is accused in one case instituted under Section 304B, 201/34 of I.P.C. whereas appellant No. 2 has no criminal antecedent.

Considering the aforesaid facts and circumstances of the case, let the appellants named above be released on bail upon furnishing bail bond of Rs. 20,000/-(twenty thousand) 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 their absence on two consecutive dates without proper and sufficient reason the trial court will be at liberty to cancel their bail bonds.

(3) If the appellants tampers 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.

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(S. Kumar, J)

