

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5269 of 2019**

Arising Out of PS. Case No.-34 Year-2019 Thana- SC/ST District- Nalanda

1. LAL BABU YADAV @ ASHUTOSH KUMAR Son of Shushil Yadav @ Shushil Prasad Resident of Village - Mohanpur, P.S. - Nalanda, District - Nalanda.
2. Gopal Pandey Son of Kaushalendra Pandey Resident of Village - Mohanpur, P.S. - Nalanda, District - Nalanda.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Giridhar Gopal Tiwary
For the Respondent/s : Mr.Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 03-12-2019 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

The appellants in the present case are seeking setting aside the order dated 26.09.2019 passed in A.B.P. No. 2273 of 2019 by learned 1st Additional Sessions Judge, Nalanda at Bihar Sharif in connection with SC/ST P.S. Case No. 34 of 2019 registered under Section 342, 323, 307, 379, 354(B), 34 of the I.P.C. and under Section 3(i)(r)(s), 3(2)(v) of SC/ST Act corresponding to G.R. NO. 4144 of 2019.

Learned counsel for the appellants submits that from a bare reading of the First Information Report it would appear that there are general and omnibus kind of allegations against these appellants. The specific allegation of assault by the pistol butt



on the informant is against the co-accused Dablu Kumar. So far as the allegation that appellant no. 2 had indulged in doing indecent act with the daughter-in-law of the maternal brother of the informant is concerned, the same is only a superimposition and there appears to be a case of dispute over right to way/rasta and the appellants are gotias of the informant.

Learned Special Public Prosecutor for the State has submitted that the specific allegation of assault is against Dablu Kumar and not against these appellants.

In the given facts and circumstances of the case considering the submissions of learned counsel for the appellants that there is no allegation of assault and overt act against these appellants and learned counsel for the appellants has shown that earlier also the family member of the informant of this case had lodged similar kind of allegations against these appellants and 60 unknown persons and in those cases the appellants are on bail, in the event of their arrest/surrender before the court below within a period of four weeks, let the above-named appellants be enlarged on bail furnishing bail bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Nalanda at Biharsharif, in



connection with SC/ST P.S. Case No. 34 of 2019, subject to condition as laid down under Section 438(2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the 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;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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