

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.250 of 2020

Arising Out of PS. Case No.-173 Year-2014 Thana- FATEHPUR District- Gaya

1. Dayanand Mistry Son of Dilip Mistry Resident of Village - Gumma, P.S.- Fatehpur, Distt.- Gaya.
2. Ramashish Yadav Son of Lal Dhari Yadav @ Lildhari Yadav Resident of Village - Gumma, P.S.- Fatehpur, Distt.- Gaya.
3. Rakesh Prasad @ Rako Yadav Son of Galru Yadav @ Pragash Prasad Resident of Village - Gumma, P.S.- Fatehpur, Distt.- Gaya.
4. Indal Mistry Son of Dilip Mistry Resident of Village - Gumma, P.S.- Fatehpur, Distt.- Gaya.
5. Dilip Mistry Son of Bhusadi Mistry Resident of Village - Gumma, P.S.- Fatehpur, Distt.- Gaya.
6. Satyendra Yadav Son of Late Badho Yadav Resident of Village - Gumma, P.S.- Fatehpur, Distt.- Gaya.
7. Umesh yadav Son of Lal Dhari Yadav @ Lidhari Yadav Resident of Village - Gumma, P.S.- Fatehpur, Distt.- Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Krishna Singh, Sr. Adv.
	:	Mr. Bhaskar Shankar
For the Respondent/s	:	Ms. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 23-12-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned Senior counsel for the appellants,
Sri Krishna Singh and Ms. Usha Kumari, the learned Spl.P.P. for
the State.



The present appeal has been preferred under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer of anticipatory bail vide order dated 23.09.2019, passed by the learned Exclusive Special Judge, SC/ST, Gaya in anticipatory bail petition no. 246 of 2019, arising out of Fatehpur PS case no. 173 of 2014 under Sections 341, 323, 427, 325, 504/34 of Indian Penal Code and 3(1)(X) of SC/ST Act.

The allegation levelled by the informant is that the appellants herein had come to pluck Jamuns from the Jamun tree, whereupon the informant had told them to pluck the Jamuns but not to break the branches of the trees, whereafter the accused persons i.e. the appellants herein started abusing the informant and when the grandfather of the informant had stopped them, the accused person namely Ramshila Yadav had assaulted him by means of sticks.

The learned counsel for the appellants has submitted that the appellants are innocent and have been falsely implicated in the present case. The learned counsel for the appellants has further submitted that there is no allegation of the appellants having abused the informant or her grandfather by taking any caste specific name and moreover, a general and



omnibus allegation has been levelled against the appellants herein.

Per contra, the learned Spl.PP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions of the learned counsel for the parties and taking into account the fact that a general and omnibus allegation has been levelled against the appellants herein and there is no allegation of them having engaged in any sort of overt act as also considering the fact that the appellants herein have not been alleged to have abused the informant or her grandfather by taking their caste specific name, I find that no case is made out under the provisions of the SC/St (POA) Act, 1989, hence I deem it fit and proper to admit the appellants to the privilege of anticipatory bail. Accordingly, let the abovenamed appellants, in the event of their arrest or surrender before the court below within a period of six weeks from the date of receipt/ production of a copy of this order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (ST/SC) Act, Gaya in connection with Fatehpur PS case no. 173 of 2014,



subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

Accordingly, the impugned order dated 23.09.2019 passed by the court of learned Exclusive Special Judge (SC/ST) Act, Gaya in connection with Fatehpur PS case no. 173 of 2014 is hereby set aside.

The appeal stands allowed.

(Mohit Kumar Shah, J)

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