

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.444 of 2020

Arising Out of PS. Case No.-333 Year-2019 Thana- TEKARI District- Gaya

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1. SANTOSH KUMAR Son of Sri Shambhu Sharan Prasad, Resident of Village - Nishurpur, P.S.- Tekari, District- Gaya
 2. Bibhva Kumar Raju @ Vaibhav Kumar, Son of Late Yadunandan Prasad Resident of Village - Nishurpur, P.S.- Tekari, District- Gaya

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Samir Kumar

For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 16-12-2020 Heard learned counsel for the appellants and learned
Special P.P. for the State through virtual court proceedings.

This is an appeal under Sections 14 (A) (2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act, 1989 (hereinafter in short referred to as the ‘S.C./S.T. Act’), against the refusal of prayer for bail vide order dated 14.11.2019 passed by the learned 1st Additional Sessions Judge Special Judge cum Special Judge, Gaya, in connection Tekari P.S. Case No. 333/2019 registered under Sections 323/341/447/504/506 and 34 of the Indian Penal Code and Sections 3 (i)(r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Prosecution case in brief is that on 07.09.2019 the accused persons came to the house of the informant and abused in filthy language, assaulted and threatened the informant's father and wife. They came to the house of the informant, when the informant was not present in his house. They also said that the informant is only family in the said village, so, they kidnapped them. The informant is working as contractor in the said village, so, the accused persons are harassing them.

Learned counsel for the appellants submits that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in this case and the appellants have not committed any offence. The instant case is a counter case lodged by the informant only to harass the appellants. One and half years ago, the appellant no. 1 has filed a case against the informant before the Upper Samaharta cum First Appellate Authority, Gaya stating therein that the informant has taken a construction work of Sewage in the village. But while doing the work, the informant has done a lot of scam and also he misuses the public money and has used very cheap material in the said work. The informant has also claimed more money as estimated for the said work. On the basis of the complaint, the D.M., Gaya has passed an order dated 03.08.2019 directing the authority for



recovery of the said money and also made an inspection of the said work done by the informant, if the recovery may not be done by the authority, then can lodged an FIR against the accused persons. (Order dated 03.08.2019 as Annexure-2 Series of this memo of appeal).

Learned counsel for the appellants further submits that the appellant no. 1 has also filed an informatory application bearing Informatory Application No. 3775/2018 against the informant in the year 2018 before the C.J.M., Gaya stating therein that the informant can file any false case him because the appellant no. 1 has made complaint against the informant, before D.M., Gaya regarding his scam and vesting of public money. The provision of SC/ST Act does not apply to the appellants as from the perusal of the FIR itself there was no motive for the appellants to commit the same.

Learned Special P.P. for the State opposes the prayer for bail.

In the facts and circumstances of the case, the above named appellants, in the event or their arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) each with two sureties



of the like amount each to the satisfaction of learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, Gaya in connection with Tekari P.S. Case No. 333/2019, 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.

(Anjani Kumar Sharan, J)

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