

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.915 of 2020

Arising Out of PS. Case No.-78 Year-2019 Thana- KIUL District- Lakhisarai

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1. NITISH MAHTO @ NITISH KUMAR S/o Binod Mahto @ Binod Kumar @ Vinod Prasad Resident of Village- Nayanpur, P.S.- Biripur, Distt- Lakhisarai.
 2. Binod Mahto @ Binod Kumar @ Vinod Prasad S/o Late Ramgulam Mahto Resident of Village- Nayanpur, P.S.- Biripur, Distt- Lakhisarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Satish Kumar

For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

4 06-07-2020 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 counsel for the appellants and Mr. Ajay Kumar, learned A.P.P. for the State.

The present appeal has been filed against the order dated 06.02.2020 passed by the learned court of Additional District & Sessions Judge-1st-cum-Special Judge, Lakhisarai in A.B.P. No. 122 of 2020 arising out of Kuil P.S. Case No. 78 of 2019 under Sections 302/34 of the Indian Penal Code and Section 3(2) (v) of the SC/ST Act.

The case of the prosecution in brief is that the co-accused persons namely Gaurav Kumar and Arvind Kumar had called the father of the informant whereafter the appellants herein, who were also standing nearby had also gone with the father of the



informant, however, subsequently the father of the informant had not returned back to the house in the evening and in the next morning at about 6:00 a.m. the informant learned that his father has been killed and his dead body has been brought to the police station. It is alleged that the appellants and the aforesaid two co-accused persons are involved in the murder of the father of the informant.

The learned counsel for the appellants has submitted that the appellants are innocent, they have been falsely implicated in the present case and are having fair antecedent. It is also submitted that admittedly a bare perusal of the FIR would show that the informant is not an eyewitness to the occurrence and during the course of investigation, it has transpired that an auto rickshaw of one Jiwan Mandal, in which the father of the informant was travelling, had met with an accident leading to his death and subsequently the body of the father was identified and information was given to the family members. It is further submitted that the aforesaid co-accused person namely Gaurav Kumar has already been granted the privilege of regular bail and in fact the case of the appellants herein stand on a better footing.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case,



considering the submissions made by the learned counsel for the parties and taking into account the parity of the case of the appellants herein with that of the co-accused person, who has already been granted bail by a coordinate Bench of this Court vide order dated 06.12.2019 passed in Criminal Appeal (S.J.) No. 4728 of 2019, I deem it fit and proper to direct for release of the appellants herein on regular bail.

Accordingly, the appellants, above named, are directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-I-cum-Special Judge-SC/ST, Lakhisarai in connection with Kuil P.S. Case No. 78 of 2019 (SC/ST Case No. 58/2019).

The impugned order dated 06.02.2020 passed by the learned court of Additional District & Sessions Judge-1st-cum-Special Judge, Lakhisarai in A.B.P. No. 122 of 2020 arising out of Kuil P.S. Case No. 78 of 2019, stands quashed.

The appeal is allowed.

(Mohit Kumar Shah, J)

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