

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.1385 of 2020**

Arising Out of PS. Case No.-442 Year-2018 Thana- BARARI District- Katihar

1. RAJ KISHORE YADAV S/o Shri Satish Yadav Resident of Village- Gandhigram, P.S.- Barari, Distt- Katihar.
2. Jichendra Kumar @ Jichendra Kumar Jhalandhar S/o - Shri Awdesh Bhagat @ Awadhesh Kumar Bhagat Resident of Village- Gandhigram, P.S.- Barari, Distt- Katihar.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Dr. Anjani Pd. Singh, Advocate

For the Respondent/s : Ms. Usha Kumari, Spl. APP

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

2 07-07-2020 Heard learned counsel for the appellants and Ms. Usha Kumar, learned Special PP for the State.

The appellants in the present case are seeking setting aside of the impugned order dated 27.01.2020 passed in ABP No. 07 of 2020 by learned 1st Additional District and Sessions Judge-cum-Special Judge, Katihar in connection with Barari P.S. Case No. 442 of 2018 registered for the offences punishable under Sections 147, 149, 341, 427, 504, 506/34 of the Indian Penal Code and Sections 3(i)(s)(o)3(2)(ii)(w) of SC/ST Act whereby and whereunder prayer for anticipatory bail of the appellants has been rejected.

Learned counsel for the appellants submits that in the First Information Report there is general and omnibus allegations



against all the accused persons. It is alleged that Pankaj Kumar (accused no. 1) and Umesh Singh (accused no. 2) had threatened the informant at his house by taking his caste name. He was also abused, thereafter both of them along with 50-60 persons lashed with lathi and firewood came at the house of the informant and pull down the front wall and they were also threatening the family and the females taking their caste name. These appellants are named among those 50-60 persons but there is no specific allegation or any overt act against them.

By pointing out to the order of the learned Coordinate Bench passed in Cri. Appeal (SJ) No. 3651 of 2019 learned counsel submits that the learned Co-ordinate Bench has noticed that as a matter of fact the Sister-in-law (bhabhi of the appellant no. 2) in the said case had lodged Barari P.S. Case No. 439 of 2018 against the father of the informant for dashing cousin brother of the aforesaid appellant namely Varun Sah who had succumbed to injury, in order to save his skin the informant had lodged the present case upon noticing these facts the learned Co-ordinate Bench had allowed the appeal preferred by Umesh Singh, Santosh Sah and Ankush Kumar Sah.

It is submitted by learned counsel for the appellants that these two appellants are witness in the case lodged by bhabhi of appellant no. 2, hence they have also been implicated.



Learned Spl PP for the State has opposed the prayer for anticipatory bail of the appellants.

Having regard to the facts and circumstances of the case, the submission of learned counsel for the appellants and the order dated 02.09.2019 passed by learned Co-ordinate Bench of this Court in Cri. Appeal (SJ) No. 3651 of 2019, this Court finds no reason to take a different view. The appellants are similarly situated if not standing on a better footing deserve the privilege of anticipatory bail. The impugned order is, thus, set aside, let the appellants above named in the event of their arrest or surrender within a period of four weeks from today in connection with Barari P.S. Case No. 442 of 2018 be released on bail on furnishing of bail bonds of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions Judge-cum-Special Judge, Katihar, subject to the conditions 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.



This appeal stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading ‘Judicial Orders Passed During The Pandemic Period’.

