

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1490 of 2020

Arising Out of PS. Case No.-415 Year-2019 Thana- BAHADURPUR District- Darbhanga

MUKESH KUMAR YADAV Son of Prem Yadav @ Premchandra Yadav
Resident of Village - Ganj panchayat Bajitpur, P.S. - Bahadurpur, District -
Darbhanga.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kedar Jha
For the Respondent/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 14-09-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
appeal has been listed with defects.

Learned counsel for the appellant undertakes to
remove the defect(s) within a period of four weeks of
resumption of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken
period, the office will place the matter again.

Heard learned counsel for the appellant and the State.

The present appeal has been preferred against the
order dated 07.03.2020, passed by learned 1st Additional



Sessions Judge-cum-Special Judge, SC/ST(PoA) Act, Darbhanga in connection with SC/ST G.R. No. 157 of 2019, arising out of Bahadurpur P.S. Case No. 415 of 2019, whereby the prayer for bail of the appellant has been rejected.

The appellant is languishing in custody since 27.01.2020, in a case registered for the offences punishable under Sections 341, 323, 307, 504 and 506/34 of the IPC, Sections 3(i)(r)(s) of the SC/ST (Prevention of Atrocities) Act and Section 27 of the Arms Act.

The prosecution case, as per the fardbeyan of Rahul Kumar Paswan, recorded by A.S.I., Rama Shankar Paswan on 21.08.2019 at about 1 P.M. at D.M.C.H., Darbhanga is to the effect that on 20.08.2019, the informant was going from Chipaliya Chauk to his house after getting his mobile phone repaired, on the way, the appellant and one co-accused person started abusing the informant by calling his caste name and also resorted to fire, but the informant did not receive any injury. Thereafter, the appellant assaulted on the head of the informant with the butt of the pistol.

Learned counsel for the appellant submits that the informant has received superficial simple injury. Even assuming the accusation to be true, the case under Section 307 of the IPC



is not made out. It is further submitted that there is counter version of the occurrence also being Bahadurpur P.S. Case No. 416 of 2019. moreover, the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the appellant is accused in two other cases in which he is on bail.

Learned APP for the State submits that the appellant is named in the FIR with specific accusation.

Considering the fact that informant has received superficial simple injury, the investigation has already been concluded and period under custody, the order dated 07.03.2020, passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST(POA) Act, Darbhanga in connection with SC/ST G.R. No. 157 of 2019, arising out of Bahadurpur P.S. Case No. 415 of 2019 is hereby quashed and the appellant is directed to be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST(POA) Act, Darbhanga, in connection with SC/ST G.R. No. 157 of 2019, arising out of Bahadurpur P.S. Case No. 415 of 2019.

However, in view of the present pandemic



COVID- 19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the appellant will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST(POA) Act, Darbhanga, in connection with SC/ST G.R. No. 157 of 2019, arising out of Bahadurpur P.S. Case No. 415 of 2019.

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

The learned court below will be at liberty to cancel the bail bonds of the appellant if he defaults for three consecutive occasions during trial.



Accordingly, the present appeal is allowed and
disposed of.

(Dinesh Kumar Singh, J)

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