

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1369 of 2020**

Arising Out of PS. Case No.-340 Year-2019 Thana- BIKRAM District- Patna

SONU KUMAR YADAV S/o Late Ramnath Yadav R/o Faridpur, Baghakaui,
P.S.- Bikram, District- Patna.

... .. Appellant/s

Versus

THE STATE OF BIHAR Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Patanjali Rishi
For the Respondent/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 16-09-2020 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 week 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 27.02.2020, passed by learned Additional District



and Sessions Judge-VIII-cum-Special Judge, SC/ST, Patna in connection with Special Case No. 499 of 2019, arising out of Bikram P.S. Case No. 340 of 2019, whereby the prayer for bail of the appellant has been rejected.

The appellant is languishing in custody since 14.10.2019, in a case registered for the offences punishable under Sections 147, 148, 149, 504, 307, 506, 456 of the IPC, Section 27 of the Arms Act and Sections 3(i)(r)(s) and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, as per the fardbeyan of Reena Devi, recorded by S.I., Sant Lal Singh on 13.10.2019 at 12.30 P.M. at Hi-Tech Hospital, Saguna More, Danapur is to the effect that the informant, after death of her husband, along with her two children, was residing with her brother Dharmendra Kumar. In the background of dispute with regard to pathway, Dinanath Yadav, the neighbour of the brother of the informant used to abused the brother of the informant by calling his caste name. On 12.10.2019 at about 10 P.M., the informant along with her two sons and her brother were in their house, in the meantime, co-accused Dinanath Yadav, Nitish Kumar, Aatish Kumar, Bablu Kumar and the appellant, Sonu Kumar entered into the house of the brother of the informant and started



abusing. The appellant and co-accused Nitish Kumar were armed with pistol and co-accused Dinanath Yadav, Anish Kumar and Bablu Kumar were armed with lathi. It is alleged that on the instigation of co-accused Dinanath Yadav, the petitioner and co-accused Nitish Kumar resorted to 6-7 round firing, as a result, firing made by the appellant hit on the chest of the son of the informant, Piyus Kumar.

Learned counsel for the appellant submits that even assuming the accusation to be true, no offence under the provision of SC/ST (Prevention of Atrocities) Act is made out against the appellant. Admittedly, the accusation took place in the background of land dispute and there is no accusation of repeating blow against the appellant. Moreover, the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the appellant is not having any criminal antecedent.

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

Considering the fact that there is no accusation of repeating the blow against the appellant, the investigation has already been concluded and period under custody, coupled with statement made in paragraph no.3 of the petition to the effect



that the appellant is not having any criminal antecedent, the order dated 27.02.2020, passed by learned Additional District and Sessions Judge-VIII-cum-Special Judge, SC/ST, Patna in connection with Special Case No. 499 of 2019, arising out of Bikram P.S. Case No. 340 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 Additional District and Sessions Judge-VIII-cum-Special Judge, SC/ST, Patna, in connection with Special Case No. 499 of 2019, arising out of Bikram P.S. Case No. 340 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 petitioner 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 Additional District and Sessions Judge-VIII-cum-Special Judge, SC/ST, Patna, in connection with Special Case No. 499 of 2019, arising out of Bikram P.S. Case No. 340 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)

Amrendra/-

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