

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1407 of 2020**

Arising out of PS. Case No.-76 Year-2018 Thana- CHANDI District- Bhojpur

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Giri Yadav, Son of Ashok Yadav, Resident of Village-Salempur, P.S.-Chandi,
District-Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 1416 of 2020

Arising out of PS. Case No.-76 Year-2018 Thana- CHANDI District- Bhojpur

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Sujeet Yadav, Son of Raj Kumar Yadav @ Raj Kumar Singh, Resident of
Village-Salempur, P.S.-Chandi, District-Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 1407 of 2020)

For the Appellant/s : Mr. Prabhat Kumar Singh, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl. PP

(In CRIMINAL APPEAL (SJ) No. 1416 of 2020)

For the Appellant/s : Mr. Prabhat Kumar Singh

For the Respondent/s : Mr. Binay Krishna, Spl. PP

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

2 28-09-2020 The matters have been taken up through virtual Court
proceeding.

Heard learned counsel for the appellants and learned
Spl. PP for the respondent-State.

Since the court proceeding in physical mode is non-
functional, due to present pandemic, COVID-19, the matters are



listed with defects.

Learned counsel for the appellants undertakes to remove the defects within three weeks of resumption of court proceeding in physical mode. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the bench.

The present appeals have been preferred on behalf of the appellants for setting aside the orders dated 06.03.2020 and 04.03.2020 passed by learned 1st Additional District & Sessions Judge-cum-Special Judge, SC/ST, Bhojpur at Ara, whereby the appellants' prayer for bail in connection with SC/ST Case No. 152(A) of 2018 arising out of Chandi P.S. Case No. 76 of 2018 registered for the offences punishable under Section 302/34 of the Indian Penal Code and Sections 3(1)(r)(s)/3(2)(va) of SC/ST (Prevention of Atrocities) Act, has been rejected. The appellant, Giri Yadav is in custody since 01.03.2020 and the appellant, Sujeet Yadav is in custody 18.10.2019.

The prosecution case, as per the fardbeyan of Rajdhani Devi recorded by Dhananjay Kumar Singh, SHO Chandi P.S. is to the effect that on 19.06.2018 at 7.00 P.M., Raj Kumar Yadav came to the house of informant and took her father, Shyam Narayan Mushahar with him. At 5.30 P.M. on the



same day, the informant came to know that her father has been assaulted by Raj Kumar Yadav, Alok Yadav, Awadhesh Yadav, Sujeet Yadav, the appellants, Babua Yadav and Giri Yadav and when he got unconscious they threw the father of the informant near the embankment of river in front of the house of the informant. Subsequently, when the informant along with his family members went near the river, she found the dead body of her father with bleeding injury. When the informant went to inquire from Raj Kumar Yadav then his son Sujeet Yadav, the appellant admitted that they have made assault on her father on account of which, he received injuries and he has been thrown near the embankment of river. The informant further stated that the reason behind the occurrence is that Raj Kumar Yadav was indulged in the trade of illicit liquor and he wanted the father of the informant to help in the illicit trade of liquor and when he refused to do so all the accused persons assaulted and killed him.

It is submitted by learned counsel for the appellants that the accusation is omnibus and general and the appellants have been apprehended on mere suspicion and the informant is not the eye witness of the alleged occurrence. A statement has been made in paragraph no. 3 of the petitions that the appellants



are not having any criminal antecedent and the investigation has already been concluded. Moreover, co-accused Babua Yadav has been granted bail vide order dated 01.06.2020 passed in Cr. App (SJ) No. 953 of 2020 by a Co-ordinate bench of this Court.

Learned Spl. PP for the State submits that the appellants are named in the FIR and they assaulted the father of the victim, as a result, he died.

Considering the fact that the accusation is omnibus and general in nature and the investigation has already been concluded and similarly situated co-accused has been granted bail by a Co-ordinate bench of this Court, the orders dated 06.03.2020 and 04.03.2020 passed by learned 1st Additional District & Sessions Judge-cum-Special Judge, SC/ST, Bhojpur at Ara are, hereby, set aside and the appellants above named are directed to be released on bail for a period of three months for the present on furnishing one surety to the satisfaction of the 1st Additional District & Sessions Judge-cum-Special Judge, SC/ST, Bhojpur at Ara in connection with SC/ST Case No. 152(A) of 2018 arising out of Chandi P.S. Case No. 76 of 2018.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon 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 appellants which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the appellants will be confirmed by the learned Court below within three months on furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned 1st Additional District & Sessions Judge-cum-Special Judge, SC/ST, Bhojpur at Ara in connection with SC/ST Case No. 152(A) of 2018 arising out of Chandi P.S. Case No. 76 of 2018.

The learned Court below is at liberty to further extend the period of provisional bail if the lock down is not over in next three months.

Accordingly, the appeals are allowed.

(Dinesh Kumar Singh, J)

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