

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 1419 of 2020

Arising Out of PS. Case No.-18 Year-2019 Thana- SC/ST District- Jehanabad

1. BHIM KUMAR @ BHIM RAM Son of Shivnath Ram @ Shivnath Chandrawansi R/o village - Hajipur, P.S.- Kako, District - Jehanabad
2. Sanjay Kumar Son of Shivnath Ram R/o village - Hajipur, P.S.- Kako, District - Jehanabad
3. Gautam Kumar Son of Bhim Kumar @ Bhim Ram R/o village - Hajipur, P.S.- Kako, District - Jehanabad
4. Golu Kumar Son of Bhim Kumar @ Bhim Ram R/o village - Hajipur, P.S.- Kako, District - Jehanabad
5. Sunita Kumari @ Sunita Devi Wife of Bhim Kumar @ Bhim Ram R/o village - Hajipur, P.S.- Kako, District - Jehanabad
6. Sanju Kumari Wife of Sanjay Kumar R/o village - Hajipur, P.S.- Kako, District - Jehanabad

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

For the Appellant/s	:	Mr Krishna Kant Singh, Advocate
For the Respondent/s	:	Mr Binay Krishna, Special PP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

2 06-10-2020

As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

Heard learned counsel for the appellants and the learned Special PP for the State.

Appellants seek bail in a case registered under



Sections 147, 148, 149, 323, 324, 307, 379, 354 of Indian Penal Code and Sections 3 (i) (r) (s) (w), 3 (2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for brevity, SC/ST Act).

Learned counsel for the appellants submits that the matter has been compromised between the parties. Relying upon the compromise petition (Annexure 3) and other intending factors, which are indicative of the fact that it is a case of false implication, appellants No 1 to 4 would be approaching the Court below for grant of regular bail.

This Court would only observe that if such an application is filed, the Court below would be required to consider the appellants No 1 to 4's prayer for bail upon its own merit giving due considerations to the submissions as well as the compromise. The fact that appellants No 1 to 4 have not pressed their prayer for grant of anticipatory bail, it may not be to the disadvantage of appellants No 1 to 4.

The Court below, needless to say, would be obliged to consider their prayer for regular bail in accordance with law.

This appeal is permitted to be withdrawn with liberty, as aforesaid, so far as appellants No 1 to 4 are concerned.

So far as appellants No 5 and 6 are concerned,



submission is that the false implication of the two appellants, who are females, is apparent from the fact that the allegation made in the First Information Report is self-contradictory. At one place, they have been alleged to be part of unlawful assembly. In the same breath, the informant has alleged that both of them were standing on the roof and pelting stones. In view of this contradictory statement and the fact that no specific allegation of caste based abuse has been made against these two persons, offences under the SC/ST Act is not made out against these two appellants.

The learned Special PP has opposed the prayer for anticipatory bail. It is submitted that the case has been lodged under SC/ST Act and prayer for anticipatory bail would not be maintainable.

In view of the law laid down by the Apex Court in the case of *Vilas Pandurang Pawar -Versus- State of Maharashtra, (2012) 8 Supreme Court Cases 795*, for the limited purpose of consideration for grant of anticipatory bail, this Court is inclined to accept the submission advanced by learned counsel for appellants No 5 and 6.

In the event of their arrest or surrender within four weeks from today, appellants No 5 and 6 above named shall be



released on bail on each of them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge I, Jehanabad in Jehanabad SC/ST Police Station Case No 18 of 2019 subject to the conditions as laid down in Section 438 (2) of Criminal Procedure Code and also the following conditions:

(i) That one of the bailors will be a close relative of the appellants who will give an affidavit giving genealogy as to how he is related with the appellants. The bailor will also undertake to inform the Court if there is any change in the address of the appellants.

(ii) That the appellants will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.

Learned counsel for the appellants is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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