

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1422 of 2020

Arising Out of PS. Case No.-45 Year-2019 Thana- CHHAURADANO District- East
Champaran

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LAKINDER RAY S/o Durbal Resident of Village- Murli, P.S.- Chauradano,
Distt- East Champaran

... .. Appellant/s

Versus

The State of Bihar Biahrr

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Dilip Kumar Tondon
For the Respondent/s : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 17-09-2020 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 17.06.2020, passed by learned 1st Additional



Sessions Judge-cum-Special Judge, SC/ST (POA) Act, East Champaran, Motihari in Chauradano P.S. Case No. 45 of 2019, whereby the prayer for bail of the appellant has been rejected.

The appellant is languishing in custody since 22.02.2020, in a case registered for the offences punishable under Sections 302, 307, 341 and 323/34 of the IPC and Sections 3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, as per the written report of Punyadeo Manjhi, submitted to the Station House Officer, Chauradano Police Station is to the effect that on 11.02.2019 at about 5 P.M., certain people were immersing the idol of goddess Sarswati where the son-in-law of the cousin of the informant also reached, which was protested by the processionists and he was abused by calling caste name. It is alleged that all the 9 FIR accused persons including the petitioner assaulted him with fists and slaps when it is specifically alleged against co-accused Rangeela that he caught hold of the hair of the son-in-law of the cousin of the informant, pushed him on the ground when the petitioner assaulted him with fists and leg on his chest.

Learned counsel for the appellant submits that the accusation against the appellant is to have assaulted the victim with fists and legs on his chest when the postmortem report



suggests that the victim died due to brain haemorrhage. It is further submitted that the informant has subsequently retracted from his initial version and filed a petition to that effect before the learned Court below. 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 accusation is not being corroborated by the medical opinion, the investigation has already been concluded, the informant has retracted from his initial version 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 17.06.2020, passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (PoA) Act, East Champaran, Motihari in Chauradano P.S. Case No. 45 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, East Champaran, Motihari, in connection with Chauradano P.S. Case No. 45 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), East Champaran, Motihari, in connection with Chauradano P.S. Case No. 45 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.



Accordingly, the present appeal is allowed and
disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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