

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1454 of 2020

Arising Out of PS. Case No.-33 Year-2020 Thana- CHANAN District- Lakhisarai

ORSIYAL KUMAR @ SIYAL KUMAR @ ORSIYAL YADAV S/o Huro
Yadav Resident of Village- Kharkuwan, Bataspur, P.S.- Chanan, Distt-
Lakhisarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Murari Mishra
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 14.05.2020, passed by learned Additional District



and Sessions Judge-I-cum-Special Judge, Lakhisarai in B.P. No. 475 of 2020 in connection with Chanan P.S. Case No. 33 of 2020, whereby the prayer for bail of the appellant has been rejected.

The appellant is languishing in custody since 17.04.2020, in a case registered for the offences punishable under Sections 188, 270, 271, 353, 332, 333, 379, 307 and 441/34 of the IPC, Section 3 of the Epidemic Disease Act, Section 27 of the Arms Act and Sections 3(i)(r)(s) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, as per the written report of S.I. of Police, Raj Kumar Ram, submitted to the S.H.O., Chanan Police Station is to the effect that on 16.04.2020 at about 7 A.M., the informant along with other police personnel, during raid, received a confidential information that violating the lockdown rules under the pandemic, Covid-19, some persons are carrying earth and stones through tractor. Consequently, the informant reached on the spot and saw certain people loading stones on a tractor and when the informant and the other persons chased, they started pelting stones and escaped from the scene, though, three accused persons including the appellant were apprehended, who disclosed their names as well as the names of



other co-accused persons, who escaped from the scene.

Learned counsel for the appellant submits that the appellant has been apprehended only on the basis of suspicion and no recovery has been made from the conscious physical possession of 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 and others not only violated the lockdown rules during pandemic, Covid-19 but also they pelted stones on the police personnel and obstructed in discharge of their official duty.

Considering the fact that general and omnibus accusation has been levelled against a mob, no recovery has been made from the conscious physical possession of the appellant and the investigation has already been concluded, 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 14.05.2020, passed by learned Additional District and Sessions Judge-I-cum-Special Judge, Lakhisarai in B.P. No. 475 of 2020 in connection with Chanan P.S. Case No. 33 of 2020 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-I-cum-Special Judge, Lakhisarai, in connection with Chanan P.S. Case No. 33 of 2020.

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 Additional District and Sessions Judge-I-cum-Special Judge, Lakhisarai, in connection with Chanan P.S. Case No. 33 of 2020.



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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