

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1503 of 2020

Arising out of PS. Case No.-115 Year-2019 Thana- SUGAULI District- East Champaran

Ram Ayodhya Prasad @ Ram Ayodhya Singh S/o Late Ramlochan Prasad R/o
village- Machchaha, P.S.- Motihari Muffasil, District- East Champaran
... .. Appellant/s

Versus

The State of Bihar
... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhishek Kumar, Advocate
For the Respondent/s : Mr. Spl. PP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-09-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the appellant 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 matter is listed with defects.

Learned counsel for the appellant 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 appeal has been preferred on behalf of the appellant for setting aside the order dated 09.06.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST,



East Champaran at Motihari, whereby the appellant's prayer for bail in connection with Sugauli P.S. Case No. 115 of 2019 registered for the offences punishable under Sections 307 and 302 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v) of SC/ST (Prevention of Atrocities) Act, has been rejected.

The appellant has renewed his prayer for bail since the charge has been framed and trial has commenced in view of the liberty given by order dated 25.11.2019 passed in Cr. App (SJ) No. 3675 of 2019 by a Co-ordinate bench of this Court that the appellant may renew his prayer for bail after framing of charge.

The prosecution case, as per the written report of Indira Devi submitted to the Station House Officer, Motihari Muffasil P.S., is to the effect that the husband of the informant Harimohan Das and cousin brother of the informant Munna Kumar Das were jointly running the business of chicken feed and chicken. It is alleged that one Rajmohan Singh who was running a poultry farm took chicken feed and chicken on loan and he was not paying the amount for which they had gone to collect the money, but on the way, co-accused Vikash Singh, Jhunu Singh, Kundan Singh and Ajay Singh ordered to kill the informant's son and tried to flee away by their motorcycle. It is alleged that the appellant, Ram Ayodhya Prasad, Dhruv Prasad and Shashi



Bhushan Prasad on point of pistol surrounded the husband and cousin brother of the informant and they resorted to indiscriminate firing which hit the husband of the informant and the firearm injury caused on the abdomen of the brother of the informant, thereafter, they were taken to the hospital. Subsequently, Harimohan Das, the husband of the informant succumbed to the injury.

It is submitted by learned counsel for the appellant that the prayer for bail has been renewed on earlier liberty given by a Co-ordinate bench of this Court and there is specific accusation in the FIR that firing was made by co-accused Vikas Singh, Jhunnu Singh, Kundan Singh and Ajay Singh. It is alleged against the appellant, Ram Ayodhya Prasad and co-accused Dhruv Prasad and Shashi Bhushan Prasad that they surrounded the victim and the firing was made by other co-accused. It is further submitted that the accusation of firing gets negated with the Postmortem Examination Report which reflects that the husband of the informant received stabbed injuries and one incised injury caused by sharp weapon. Moreover, three persons have been examined during trial including Munna Kumar but they have not named the appellant during trial and, considering the same, similarly situated co-accused Rajmohan Singh who was the kingpin of whole episode has been granted bail by order dated



19.07.2019 passed in Cr. App (SJ) No. 1961 of 2019 and Vikas Singh whose bail was earlier rejected has been granted bail by order dated 07.07.2020 passed in Cr. App (SJ) No. 1388 of 2020 and there is no likelihood of trial being concluded during COVID-19 pandemic. 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.

Considering the fact that the accusation is not specific against the appellant, the accusation of injury is not corroborated by the Postmortem Examination Report, the liberty to renew prayer for bail after framing of charge in the earlier order and the injured has not named the appellant, coupled with statement made in paragraph no. 3 of the petition that the appellant is not having any criminal antecedent, the order dated 09.06.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST, East Champaran at Motihari is, hereby, set aside and the appellant above named is directed to be released on bail for a period of three months for the present on furnishing one surety to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST, East Champaran at Motihari in connection with Sugauli P.S. Case No. 115 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 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 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.10,000/- (ten thousand) 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 Sessions Judge-cum-Special Judge, SC/ST, East Champaran at Motihari in connection with Sugauli P.S. Case No. 115 of 2019.

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 appeal is allowed.

(Dinesh Kumar Singh, J)

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