

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1453 of 2020**

Arising Out of PS. Case No.-724 Year-2018 Thana- SASARAM NAGAR District- Rohtas

HARIHAR MAHTO @ HARIHAR SINGH

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sumeet Kumar Singh

For the Respondent/s : Mr.A.G.

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

2 25-09-2020 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 30.06.2020, passed by learned 1st Additional District and Sessions Judge, Rohtas at Sasaram in Sasaram Model Town P.S. Case No. 724 of 2018, whereby the prayer for bail of the



appellant has been rejected.

The appellant is languishing in custody since 30.06.2020, in a case registered for the offences punishable under Sections 147, 149, 341, 323, 448, 379, 504, 506 and 354 of the IPC, Sections 3(i)(r)(s)(w) of the SC/ST (Prevention of Atrocities) Act and Section 27 of the Arms Act.

The prosecution case, as per the written report of Smita Prasad, submitted to the S.H.O., Model Town Police Station is to the effect that on 06.05.2018 at about 9 A.M., when the mother-in-law and the husband of the informant were sprinkling water on the under construction building, in the meantime, petitioner no.4 Dhananjay Mahto resorted to fire from a country made pistol, but it did not cause injury to anyone. Thereafter, co-accused Prabhu Nath Mahto chased the husband of the informant and assaulted him with iron road causing injury on his back and on alarm being raised, bodyguard of the husband of the informant caught hold of the co-accused Prabhunath Singh. In the meantime, petitioner no. 1 Harihar Mahto, petitioner no.2, Lali Mahto and co-accused Vijay Mahto came and got co-accused Prabhu Nath Mahto released. It is further alleged that the appellant no.1, Harihar Mahto twisted the hand of the sister of the informant Sheela Devi and pushed her on the ground and also abused the informant by calling her



caste name. It is further alleged that appellant no.2 and 4, Dhananjay Mahto and Lali Mahto tried to outrage the modesty of the informant by touching her cheek and appellant no.1, Harihar Mahto snatched a mangal sutra from the sister of the informant.

It appears that appellants' earlier prayer for anticipatory bail was rejected by a Co-ordinate bench of this Court, vide judgment dated 21.05.2019, passed in Cr. App (SJ) No. 605 of 2019, which was challenged before the Supreme Court, in S.L.P (Crl.) No. 5281 of 2019, which was also dismissed vide order dated 23.01.2020 with liberty to the appellants to surrender before the learned Court below and pray for regular bail. The appellants also challenged the issuance of process under Sections 82 and 83 of the Cr. P.C., in Cr. App (SJ) No. 1322 of 2020, which was disposed of vide order dated 23.06.2020 with a liberty to the appellants to surrender before the learned court below and pray for regular bail. However, the process under sections 82-83 Cr. P.C. stayed till 30th June 2020.

Learned counsel for the appellant submits that the accusation has been levelled in the background of old enmity and land dispute between the parties. There is counter version of the occurrence also, being Sasaram Model Town P.S. Case No.



725 of 2018. It is further submitted that during hearing of the anticipatory bail application, the learned counsel for the informant submitted that the appellants are accused in eight other cases. However, a statement has been made in paragraph no.3 of the petition that in two cases, being Sasaram Model Town P.S. Case No. 356 of 2013 and Sasaram SC/ST Dehri P.S. Case No. 54 of 2018 the appellant are not made accused, whereas Case No. 231 of 2018 and Case No. 346 of 2018 have been filed before the learned Court below under Section 144 Cr. P.C., and in Sasaram SC/ST Dehri P.S. Case No. 55 of 2018, only appellant no.1, Harihar Mahto, Appellant no.2, Lali Mahto, and Appellant no.4, Dhananjay Mahto are made accused in which they are on bail. Moreover, similarly situated co-accused Vijay Kumar Singh and Prabhunath Singh have been granted anticipatory bail by a Co-ordinate bench of this Court, vide order dated 20.11.2018, passed in Cr. APP (SJ) No. 3245 of 2018. The investigation has already been concluded and in the present situation, created due to pandemic, Covid-19, since the court proceeding is not functional in physical mode, there is no likelihood of trial being concluded in near future.

Learned APP for the State submits that the appellants are named in the FIR with specific accusation.



Considering the fact that the investigation has already been concluded, similarly situated co-accused persons have been granted anticipatory bail by a Co-ordinate bench of this Court, the accusation has been levelled in the background of old enmity and land dispute and the trial is not likely to be concluded due to the pandemic, Covid-19, the order dated 30.06.2020, passed by learned 1st Additional District and Sessions Judge, Rohtas at Sasaram in Sasaram Model Town P.S. Case No. 724 of 2018 is hereby quashed and the appellants are 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 District and Sessions Judge, Rohtas at Sasaram, in connection with Sasaram Model Town P.S. Case No. 724 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 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 appellants 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 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 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 District and Sessions Judge, Rohtas at Sasaram, in connection with Sasaram Model Town P.S. Case No. 724 of 2018.

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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