

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1465 of 2020

Arising out of PS. Case No.-644 Year-2019 Thana- AMARPUR District- Banka

-
1. Rambilas Yadav, Son of Late Hari Prasad Yadav Resident of Village - Paharpur, Police Station - Amarpur, District - Banka.
 2. Dharma Yadav @ Dhamendra Yadav son of Rambilas Yadav Resident of Village - Paharpur, Police Station - Amarpur, District - Banka.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Praveen 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 appellants 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 appellants 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 appellants for setting aside the order dated 19.02.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST, Banka, whereby the appellants' prayer for bail in connection with Amarpur P.S. Case No. 644 of 2019 registered for the offences punishable under Sections 341, 323, 354(B), 427, 504, 506/34 of the Indian Penal Code and Sections 3(1)(r) (s) of SC/ST (Prevention of Atrocities) Act, has been rejected.

The prosecution case, as per the written report of Bambam Kumar Das submitted to the Station House Officer, Amarpur, P.S., is to the effect that on 12.02.2019 at 3 P.M., Ram Bilash Yadav, appellant no. 1, Kishore Yadav, Dharma Yadav, appellant no. 2 and 5-6 unknown persons came variously armed and started abusing and asked not to construct the house without giving extortion of Rs. 50,000/- and they demolished the construction while resorting to fire. It is further alleged that they tore the blouse of sister-in-law (bhabhi) of the informant, abused her and snatched her golden chain.

It is submitted by learned counsel for the appellants that for the occurrence of 12.02.2019, the FIR was registered after much delay, i.e., on 08.12.2019. However, on conclusion of investigation, the charge-sheet has been submitted under



Sections 341, 323, 427, 504, 506/34 of the Indian Penal and Sections 3(1)(r)(s) of S.C./S.T. (POA) Act. The appellants are languishing in custody since 06.02.2020 and they are accused in one other case of similar nature, statement to that effect has been made in paragraph no. 3 of the petition, that case has been lodged by the mother of the informant. It is further submitted that in the background of land dispute the accusation has been levelled against the appellants and the investigation has already been concluded.

Learned APP for the State submits that the accusation is specific against the appellants.

Considering the delayed lodging of the case, the fact that accusation is of omnibus and general nature and the investigation has already been concluded, the order dated 19.02.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST, Banka is, hereby, set aside and the appellants above named are 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, Banka in connection with Amarpur P.S. Case No. 644 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 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 bonds of Rs.10,000/- (ten thousand) each with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST, Banka in connection with Amarpur P.S. Case No. 644 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)

Vikash/-

U		T	
---	--	---	--

