

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1476 of 2020

Arising Out of PS. Case No.-231 Year-2019 Thana- BANIAPUR District- Saran

CHANDAN RAM S/o Lal Badan Ram Resident of Village- Pithouri Nand
Lal Tola, P.S.- Baniyapur, Distt- Saran at Chapra.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dewendra Narayan Singh
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 24.06.2020, passed by learned Additional District
and Sessions Judge, 1st-cum-Special Judge, SC/ST (PoA) Act,



Saran at Chapra in connection with Baniyapur P.S. Case No. 231 of 2019 (SC/ST Case No. 61 of 2020), whereby the prayer for bail of the appellant has been rejected.

The appellant is languishing in custody since 06.01.2020, in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 302, 504 and 506 of the IPC and Sections 3(i)(s) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, as per the fardbeyan of Md. Azad, recorded by Dayanand Sah, S.I. of Police, Baniyapur Police Station on 19.07.2019 at about 8.45 A.M., at Sadar Hospital, Chapra is to the effect that on the same day, when the informant's brother, Naushad Alam was in his house, in the meantime, Raju Nut and Videsh Nut came and asked the brother of the informant to take his pickup van at Pithauri Nand Lal Tola for getting animals transported. Consequently, the brother of the informant took his vehicle and as soon as he reached near the house of Butan Ram, 9 FIR named accused persons including 50-100 unknown persons stopped the brother of the informant, Raju Nut and Videsh Nut and started abusing them and they also assaulted them with lathi, danda and iron rod, as a result, the brother of the informant, Raju Nut and Videsh Nut



received injuries and they died on the spot. The appellant was not named in the FIR. His name subsequently sprang up during investigation, in the supervision note of the Dy. S.P.

Learned counsel for the appellant submits that the appellant was not named in the FIR and the specific accusation is alleged against FIR named accused persons. It is further submitted that co-accused Dharmendra Ram has been granted bail by a Co-ordinate bench of this Court vide order dated 20.12.2019, passed in Cr. App. (S.J.) No. 4633 of 2019, whereas co-accused Tribhuwan Ram and Bhuwan Ram have been granted bail by a Co-ordinate bench of this Court, vide order dated 22.05.2020, passed in Cr. App (S.J.) No. 5028 of 2019. Moreover, 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 name of the appellant sprang up during investigation.

Considering the fact that specific accusation has been levelled against the FIR named accused, the appellant was not named in the FIR, the investigation has already been concluded and similarly situated co-accused persons have been granted bail by different Co-ordinate benches of this Court,



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 24.06.2020, passed by learned Additional District and Sessions Judge, 1st-cum-Special Judge, SC/ST (PoA) Act, Saran at Chapra in connection with Baniyapur P.S. Case No. 231 of 2019 (SC/ST Case No. 61 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, 1st-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra, in connection with Baniyapur P.S. Case No. 231 of 2019 (SC/ST Case No. 61 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, 1st-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra, in connection with Baniyapur P.S. Case No. 231 of 2019 (SC/ST Case No. 61 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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