

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1504 of 2020

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

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1. Bechan Kumar S/o Prabhu Yadav Resident of Village-Khadkuan, P.S.-Chanan, District-Lakhisarai.
 2. Pramod Kumar @ Pramod Yadav S/o Prabhu Yadav Resident of Village-Khadkuan, P.S.-Chanan, District-Lakhisarai.
 3. Sarun Yadav S/o Maksudan Yadav @ Masudan Yadav Resident of Village-Bataspur, P.S.-Chanan, District-Lakhisarai. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Murari Mishra, 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 14.05.2020 passed by learned 1st Additional District & Sessions Judge-cum-Special Judge, SC/ST, Lakhisarai in B.P. No. 475 of 2020, whereby the appellant's prayer for bail in connection with Chanan P.S. Case No. 33 of 2020 registered for the offences punishable under Sections 188, 270, 271, 353, 332, 333, 379, 307 and 441/34 of the Indian Penal Code, Section 3 of Epidemic Diseases Act, Section 27 of the Arms Act 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 S.I. Raj Kumar Ram submitted to the Station House Officer, Chanan P.S., is to the effect that on 16.04.2020 at 7.00 P.M. during patrolling, an information was received from Station House Officer, Chanan P.S. that in Mushahari village near graveyard, the people are violating the lock down rules under COVID-19 pandemic and are loading stones and stone-chips on tractor by JCB and, on seeing the police party, they started pelting stones and resorted to fire on police party 5-6 rounds, as a result, informant received injury and the driver of JCB Machine and tractor started



fleeing away making noise, the police chased them but they managed to escape from the scene and three persons, Bechan Kumar, Pramod Yadav and Sarun Yadav, the appellants were apprehended by the police and on their statement, 25 other co-accused persons were named in the FIR.

It is submitted by learned counsel for the appellants that the accusation is omnibus and general and the appellants have been apprehended on mere suspicion. The accusation on the accused to have resorted firing on police party is only to justify action of the police leading to registration of FIR against the appellants and 25 other co-accused persons. A statement has been in paragraph no. 3 of the petition that the appellant no. 1 and 2 have no criminal antecedent but appellant no. 3 is accused in six other cases in which, he is on bail and the investigation has already been concluded.

Learned Spl. PP for the State submits that the appellants were pelting stones on the police force and they were apprehended on the spot.

Considering the fact that the accusation is omnibus and general in nature and the fact that the



investigation has already been concluded, the order dated 14.05.2020 passed by learned 1st Additional District & Sessions Judge-cum-Special Judge, SC/ST, Lakhisarai in B.P. No. 475 of 2020 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 District & Sessions Judge-cum-Special Judge, SC/ST, 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 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 1st Additional District & Sessions Judge-cum-



Special Judge, SC/ST, Lakhisarai in connection with
Chanan P.S. Case No. 33 of 2020.

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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