

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1501 of 2020

Arising out of PS. Case No.-34 Year-2018 Thana- LADAIYATAR District- Munger

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1. Awadhesh Yadav S/o Late Daro Yadav Resident of Village-Dharampur, P.S.-Laraiya Tand, District-Munger.
 2. Ajay Yadav S/o Kali Yadav Resident of Village-Dharampur, P.S.-Laraiya Tand, District-Munger.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Indu Bhushan, 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 24.07.2020 passed by learned Special Judge, SC/ST, Munger, whereby the appellant's prayer for bail in connection with Laraiya Tand P.S. Case No. 34 of 2018 registered for the offences punishable under Sections 302/201/34 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 Manju Devi submitted to the Station House Officer, Laraiya Tand, P.S., is to the effect that on 11.09.2018 at 6.00 P.M., the husband of the informant went to cattle shed from his house but did not return and on the next day, the villager informed that the dead body of her husband, Makhru Manjhi @ Makeshwar Manjhi has been found lying into the river near Nounia Pahar, thereafter, she along with family members rushed to place of occurrence where she found the dead body of her husband was lying into the river. The informant raised suspicion of killing against Vinodi Yadav, Amit Yadav, Chiku Yadav, Ajay Yadav, appellant no. 2 and Awadhesh Yadav, appellant no. 1 since earlier a case was lodged by her husband against them and they were pressurizing to withdraw the same.

It is submitted by learned counsel for the appellants that the husband of the informant went missing on 11.09.2018



but the information was received in the Police Station on 12.09.2018 at 6.30 P.M. and the FIR was registered on 13.09.2018 at 1.00 P.M. The accusation is based only on the basis of suspicion. Admittedly, there is no eye-witness to the occurrence and accusation is omnibus and general in nature. A statement has been made in paragraph no. 3 of the petition that the appellants are accused in one other case in which they are on bail and the investigation has already been concluded. The appellants are in custody since 03.03.2020.

Learned Spl. PP for the State submits that the appellants are named in the FIR.

Considering the suspicious nature of accusation and the fact that the investigation has already been concluded, there is no eye witness to the alleged occurrence, the order dated 24.07.2020 passed by learned Special Judge, SC/ST, Munger 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 Special Judge, SC/ST, Munger in connection with Laraiya Tand P.S. Case No. 34 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 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 Special Judge, SC/ST, Munger in connection with Laraiya Tand P.S. Case No. 34 of 2018.

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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