

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1519 of 2020

Arising Out of PS. Case No.-278 Year-2019 Thana- BIBHUTIPUR District- Samastipur

1. VIKASH KUMAR S/o Surendra Rai Resident of Village- Kalyanpur Gardh,
P.S.- Bibhutipur, Distt- Samastipur.
2. Chandan Rai S/o Late Sita Ram Rai Resident of Village- Kalyanpur Gardh,
P.S.-Bibhutipur, Distt- Samastipur.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Surya Narayan Roy

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 29-09-2020 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 appellants and the State.

The present appeal has been preferred against the



order dated 24.06.2020, passed by learned 1st Addl. Sessions Judge-cum-Special Judge, SC/ST (Prevention of Atrocities Act), Samastipur in Bibhutipur P.S. Case No. 278 of 2019, whereby the prayer for bail of the appellants has been rejected.

The appellants are languishing in custody since 10.06.2020, in a case registered for the offences punishable under Sections 307, 323/34, 341, 379, 448 and 504 of the IPC and Sections 3(i)(r)(s)(w) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, as per the fardbeyan of Babi Kumari, recorded by S.I. of Police, Sangeeta Kumari on 02.11.2019 at about 2.50 P.M., at Sadar Hospital, Samastipur is to the effect that on 01.11.2019 at about 10.30 P.M., when the informant was preparing to make Prasad for Chhath festival, in the meantime, someone threw bricks in the house of the informant and when the informant went to see then all the FIR named accused persons including the appellants armed with lathi, danda and iron road entered into the house of the informant and started abusing the informant and on protest being made, co-accused, Surendra Rai assaulted the informant causing bleeding injury on his neck and when the husband, brother-in-law and two sons of the informant came to rescue her,



then they were also assaulted by all the accused persons including the appellants. It is further alleged that co-accused Ankush Kumar snatched gold chain from the informant.

Learned counsel for the appellants submits that the accusation against the appellants is omnibus and general and the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the appellants are not having any criminal antecedent.

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

Considering the fact that the accusation against the appellants is omnibus and general and the investigation has already been concluded, coupled with statement made in paragraph no.3 of the petition to the effect that the appellants are not having any criminal antecedent, the order dated order dated 24.06.2020, passed by learned 1st Addl. Sessions Judge-cum-Special Judge, SC/ST (Prevention of Atrocities Act), Samastipur in Bibhutipur P.S. Case No. 278 of 2019 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 1st Addl. Sessions Judge-cum-Special Judge, SC/ST (Prevention of Atrocities Act),



Samastipur, in connection with Bibhutipur P.S. Case No. 278 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 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) each with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned 1st Addl. Sessions Judge-cum-Special Judge, SC/ST (Prevention of Atrocities Act), Samastipur, in connection with Bibhutipur P.S. Case No. 278 of 2019.

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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