

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1548 of 2020

Arising Out of PS. Case No.-148 Year-2018 Thana- PATEPUR District- Vaishali

1. Sonia Devi @ Paro Devi, W/o Bihari Sahni, Resident of Village-Asma (Aswan Kumar Bajitpur), P.S.-Patepur, District-Vaishali.
2. Chango Devi @ Chano Devi, W/o Naresh Sahni, Resident of Village-Asma (Aswan Kumar Bajitpur), P.S.-Patepur, District-Vaishali.
3. Bihari Sahni, S/o Motilal Sahni, Resident of Village-Asma (Aswan Kumar Bajitpur), P.S.-Patepur, District-Vaishali.
4. Lakhan Sahni, S/o Ramdayal Sahni, Resident of Village-Asma (Aswan Kumar Bajitpur), P.S.-Patepur, District-Vaishali.
5. Bimal Sahni, S/o Haricharan Sahni, Resident of Village-Asma (Aswan Kumar Bajitpur), P.S.-Patepur, District-Vaishali.
6. Arun Sahni, S/o Ramdayal Sahni, Resident of Village-Asma (Aswan Kumar Bajitpur), P.S.-Patepur, District-Vaishali.
7. Dev Kumar Sahni, S/o Shankar Sahni @ Mater Sahni, Resident of Village-Asma (Aswan Kumar Bajitpur), P.S.-Patepur, District-Vaishali.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Ms.Rina Sinha, Advocate

For the Respondent/s : Smt. Usha Kumari, Spl.PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 07-10-2020 Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.



Heard learned counsel for the appellants and the learned Special PP for the State.

The appellants have preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 against the refusal of their prayer for anticipatory bail, vide order dated 17.06.2020 passed by learned Additional Sessions Judge-Ist-Cum-Special Judge, Hajipur, Vaishali, in A.B.P. No.716/2020 arising out of Patepur P.S. Case No.148 of 2019 instituted for the offence under Section 147/148/149/341/323/307/302/504 of the I.P.C. and Sections 3(i)(r)(s), 3(2)(v) of the SC/ST Act and also for setting aside the aforesaid order dated 17.06.2020.

The allegation is that on a petty quarrel amongst the children, the appellants' family led by Chandradeep Sahni has assaulted the prosecution side, leading to death of the informant's father.

Learned counsel for the appellants submits that the occurrence has taken place at the spur of the moment. There is no allegation specifically of assaulting or insinuation by caste name by these appellants. The specific allegation, whatsoever is against Chandradeep Sahni of giving the fatal blow and the post-mortem report also found only one injury on the person of



the victim. In view of the nature of dispute, the issue has subsequently been compromised between the parties. Statement to this effect has been made in the memo of appeal. The appellants have no criminal antecedents and having regard to the aforesaid circumstances, the false implication of the appellants cannot also be ruled out. Prosecution therefore does not constitute offences under the S.C./ST Act in so far as the appellants are concerned.

Learned Special P.P. for the State has opposed the prayer on the ground of pre-arrest bail being not maintainable under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Considering the rival submissions and having regard to the judgment of the Apex Court in the case of *Vilas Pandurang Pawar vs. State of Maharashtra*, reported in **(2012)8 SCC 795: 2012(4) PLJR (SC) 243**, this Court is inclined to allow the appellants' prayer for anticipatory bail.

Accordingly, let the appellants, above named, in the event of their arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the



learned Additional Sessions Judge-Ist-cum-Special Judge, Hajipur, Vaishali, in connection with Patepur P.S. Case No.148 of 2018, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors of each of the appellants will be a close relative of the appellants who will give an affidavit giving genealogy as to how he is related with the appellants concerned. The bailors will also undertake to inform the court if there is any change in the address of the appellants.

(ii) That the appellants will be well represented on each date and if they fail to do so on two consecutive dates, their bail bonds will be liable to be cancelled.

In the result, the appeal is allowed and the order dated 17.06.2020 is set aside.

This Court would expect that the appellants' counsel would honour her undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date she is called upon to do so by the office.

(Madhuresh Prasad, J)

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