

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1870 of 2020

Arising Out of PS. Case No.-136 Year-2020 Thana- KAHALGAON District- Bhagalpur

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1. Umesh Mandal Son of Late Banarsi Mandal Resident of Village/Mohalla-Shiv Kumari Pahar, Ward No.-16, P.S.-Kahalgaon, District-Bhagalpur.
 2. Suchitra Kumari Wife of Umesh Mandal Resident of Village/Mohalla-Shiv Kumari Pahar, Ward No.-16, P.S.-Kahalgaon, District-Bhagalpur.

... .. Appellants

Versus

The State Of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr. Swapnil Kumar Singh, Adv.

For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 11-12-2020

Heard learned counsel for the appellants and
learned Spl. P.P. for the State via video conferencing.

2. This appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been preferred by the appellants challenging the order dated 29.06.2020 passed in A.B.P. No. 1047 of 2020 in connection with Kahalgaon P.S. Case No. 136 of 2020 registered for the offences punishable under Sections 448, 323/34 of the Indian Penal Code and Section 3(1)(r)(s) of the SC/ST Act by the learned 3rd Addl. Sessions Judge-cum-Special Judge-SC/ST Act, Bhagalpur whereby he has rejected



the appellants prayer for grant of pre-arrest bail.

3. The prosecution case is based on the written complaint filed by one Saraswati Devi to the officer in-charge of Kahalgaon police station alleging therein that while she along with her husband had gone to Bhagalpur civil court for court work and her two children were at home, the appellants tried to demolish the foundation of the house. When she came back to her home at 07:00 p.m., in the evening, she came to know that the appellants and their family members were abusing her and her family members by taking their caste name. It is further alleged that on 26.02.2020 at about 08:00 a.m., the appellants and their son Raja Mandal assaulted her and her husband and their children.

4. Learned counsel appearing for the appellants submitted that the allegations made in the first information report are patently false. The appellants are innocent and they have not committed any offence. They are neighbours and there is a dispute for passage existing between the parties and in a preplan manner, the informant has set-up a false case in order to put pressure upon the appellants and their family members. He contended that the informant and her husband are habitual litigants and they have lodged Kahalgaon P.S. Case No. 632 of



2015, Kahalgaon P.S. Case No. 72 of 2017, Kahalgaon P.S. Case No. 719 of 2018 and Kahalgaon P.S. Case No. 799 of 2019 against several other co-villagers. He further contended that when the son of the appellants Guddu Yadav @ Manish Kumar moved for grant of bail before the court below in the instant case, the case diary was called for and while allowing his application vide order dated 29.06.2020 as contained in Annexure-2 to the present application, the court below has categorically held after perusal of the case diary that the informant denied having sustained any external injury but told to have sustained hurt and when the lady constable inspected her body, she told the investigating officer that there was no injury on her body. The court below further observed after looking various paragraphs of the case diary that the investigating officer had inspected the house of the informant but did not find that any damage was done to the foundation. He next contended that the court below has also observed that the supervisory officer has observed in his notes that the local villagers flatly denied that any occurrence as alleged had taken place and they all spoke against the informant.

5. Learned Spl. P.P. for the State has vehemently opposed the prayer for pre-arrest bail of the appellants. He



contended that there is allegation of abuse and assault by the informant against the appellants and their family members. He further contended that the observations made by the court below in a case of co-accused Guddu Yadav @ Manish Kumar as contained in Annexure-2 to the present application would not be a ground for grant of pre-arrest bail to the appellants.

6. Having heard the parties and perused the materials on record, since the investigating agency had doubted the veracity of the prosecution case during investigation and no injury on the person of the informant could be noticed or found, I am inclined to allow the appeal preferred on behalf of the appellants. Accordingly, the impugned order dated 29.06.2020 passed by the learned Additional District and Sessions Judge-III-cum-Special Judge, SC/ST, Bhagalpur is, hereby, set aside.

7. The appellants are directed to be released on bail, in the event of their arrest or surrender, on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-III-cum-Special Judge, SC/ST, Bhagalpur in connection with Kahalgaon P.S. Case No. 136 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.



8. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my e-mail by the Sr. Secretary.
- (ii) The corrected copy of the order shall be transmitted by me from my e-mail id to the Sr. Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let steps be taken by the Sr. Secretary/registry for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14-12-2020
Transmission Date	14-12-2020

