

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1884 of 2020

Arising Out of PS. Case No.-131 Year-2020 Thana- BANIAPUR District- Saran

- =====
1. Krishna Rai @ Kisan Rai S/o Mishri Lal Rai Resident of Village-Dewalakha Bhithi, P.S.-Baniyapur, District-Saran.
 2. Paras Rai S/o Mishri Lal Rai Resident of Village-Dewalakha Bhithi, P.S.-Baniyapur, District-Saran.
 3. Mishri Lal Rai S/o Late Teghu Ram Rai Resident of Village-Dewalakha Bhithi, P.S.-Baniyapur, District-Saran.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr. Anil Kumar Sinha, Adv.

Mr. Nalin Kumar, 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 : 17-12-2020

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, (hereinafter referred to as the “Act”) has been preferred by the appellants challenging the order dated 29.08.2020 passed in A.B.P. No. 1558 of 2020 in connection with Baniyapur P.S. Case No. 131 of 2020 registered for the offences punishable under Sections 341, 504 and 323/34 of the Indian Penal Code and Section 3(1)(r)(s) and 3(2)(iv) of the SC/ST Act by the learned 1st Addl. District & Sessions Judge-cum-Special Judge-SC/ST, Saran



whereby he has rejected the appellants prayer for grant of pre-arrest bail.

3. It is submitted by the learned counsel for the appellants that the impugned order passed by the court below is bad in law as well as on facts. He contended that no occurrence as alleged in the first information report had ever taken place. There is no evidence to suggest that the house of the informant was ever set on fire. He further contended that the appellants and the informant are residents of the same village and due to some minor scuffle, the FIR has been instituted by exaggerating the incident.

4. On the other hand, learned Spl. P.P. appearing for the State submitted that the allegations made in the FIR are of abusing the informant by taking his caste name "Netua" and setting his house on fire against the appellants. He contended that the impugned order would suggest that during investigation, the allegations were found true. Thus, in view of Section 18 of the Act, an application for grant of pre-arrest bail would not be maintainable. The court below has rightly rejected the application for grant of pre-arrest bail of the appellants.

5. Having heard the parties and perused the materials on record, I find substance in the submissions made by the learned Spl. P.P. for the State.



6. Since the specific allegation of abusing the informant by taking his caste name and setting his house on fire has been made in the first information report against the appellants, no error can be found with the order passed by the court below.

7. Accordingly, the order impugned passed by the court below is upheld. The appeal against the order dated 29.08.2020 passed by the learned 1st Addl. District & Sessions Judge-cum-Special Judge-SC/ST Act, Saran in A.B.P. No. 1558 of 2020 in connection with Baniyapur P.S. Case No. 131 of 2020 is, hereby, dismissed.

8. In case, the appellants surrender and seek bail, the same shall be considered and disposed of on its own merit without being prejudiced in any manner by this order.

9. 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	21-12-2020
Transmission Date	21-12-2020

