

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4675 of 2019

Arising Out of PS. Case No.-109 Year-2019 Thana- NAUBATPUR District- Patna

1. PRAVIND SINGH @ PRAVINDRA KUMAR SINGH Son of Late Bhaiyalal Singh Resident of Village- Danaganj, Police Station- Naubatpur, District- Patna.
2. Hare Ram Singh @ Harendra Singh @ Hare Ram Prasad Son of Anuj Singh @ Ram Anuj Singh Resident of Village- Danaganj, Police Station- Naubatpur, District- Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Jay Ram Prasad
For the Respondent/s	:	Mr.Usha Kumari 1
For the Informant	:	Mr. Rajeev Kr. Sinha

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 01-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the appellants, learned counsel for the informant and learned counsel for the State.

The present appeal has been preferred on behalf of the appellants for setting aside the order dated 13.9.2019 passed by the learned Additional Sessions Judge-XX-cum-Special Judge, SC/ST Act, Patna in Special Case No. 86 of 2019 arising out of Naubatpur P.S. Case No. 109 of 2019 registered for the offences punishable under Sections 447,341,323,325,307 and 302/34 of the IPC and Sections 3(s)(v) of The Scheduled Caste and



Scheduled Tribe (Prevention of Atrocities) Act, 1989, whereby the appellants' prayer for bail in the aforementioned case has been rejected and consequential prayer for bail has been made.

The prosecution case, as per the Fardbeyan of Mahipal Rajak recorded by S.I. Anup Kumar Thakur, Naubatpur Police Station at 11.30 A.M. on 25.2.2019 at the house of the informant, is to the effect that on 10.2.2019 at 5-6 P.M. the son of the informant, namely Shishupal Rajak was coming to the house from market but on the way the appellants and co-accused Arvind Singh, Banti Kumar, Monti Kumar and Anant Kumar surrounded him and started abusing. On protest being made, the issue was resolved. It is further alleged that about 3-4 years earlier also, the appellants and their father had made assault to the family members of the informant. On 12.2.2019 at 7.30, A.M. the appellants and co-accused Arvind Singh, Banti Kumar, Monti Kumar and Anant Kumar started abusing the informant and caused injury, as a result the informant was admitted to PMCH, Patna. It is further submitted that for the occurrence of 12.2.2019, Naubatpur P.S. Case No. 105 of 2019 was registered on 24.2.2019. It is further alleged that on 12.2.2019 itself, co-accused Arvind Singh, Banti Kumar, Monti Kumar and Anant Kumar including the appellants came and



assaulted the informant's son Shishupal, daughter-in-law Lalita Devi and wife Chinta Devi causing fracture injury in the hand of Shishupal, for which plaster was put on by Dr. Anshu Anand. On 25.2.2019 in the night at 1.30, hours the informant's son started having acute pain in the chest and lower abdomen, when he was taken to the clinic of Dr. Lalit Mohan Sharma, where he died.

It is submitted by learned counsel for the appellants that for the alleged occurrence of 12.2.2019, the FIR was registered on 25.2.2019 and there is no explanation for the same. Admittedly, the son of the informant did not die due to fracture injury but he died of the pain in the chest and abdomen in the night of 24/25.2.2019. The appellants are not accused in any other case, except the two cases lodged by the informant. It is further submitted that the similarly situated co-accused Arvind Singh has been granted bail by a Co-ordinate Bench of this Court vide order dated 22.5.2020 in Cr. Appeal (SJ) No. 4849 of 2019. The investigation has already been concluded.

Learned counsel for the informant submits that the son of the informant received internal injury, as a result, he died. It is further submitted that the FIR was not lodged earlier because the son of the informant was being treated in hospital.



Considering the fact that there is no explanation for delayed lodging of the case and for causing fracture injury to the son of the informant on 12.2.2019, the FIR has been lodged on 25.2.2019 after the death of the son of the informant and admittedly, he died not due to fracture injury on his hand but due to complain of pain in chest and abdomen, similarly situated co-accused Arvind Singh having been granted bail by a Co-ordinate Bench of this Court vide order dated 22.5.2020 in Cr. Appeal (SJ) No. 4849 of 2019 and the fact that investigation has already concluded, coupled with the period in custody, the order dated 13.9.2019 passed by the learned Additional Sessions Judge-XX-cum-Special Judge, SC/ST Act, Patna in Special Case No. 86 of 2019 arising out of Naubatpur P.S. Case No. 109 of 2019 is 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 Additional Sessions Judge-XX-cum-Special Judge, SC/ST Act, Patna in the aforementioned case.

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 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 of the like amount each to the satisfaction of the learned learned Additional Sessions Judge-XX-cum-Special Judge, SC/ST Act, Patna in connection with Special Case No. 86 of 2019 arising out of Naubatpur P.S. Case No. 109 of 2019 including one surety given at the time of provisional bail.

The learned Court below will be 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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