

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5885 of 2019

Arising Out of PS. Case No.-28 Year-2019 Thana- SC/ST District- Samastipur

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1. KUNDAN KUMAR S/o Pramod Singh R/o village- Gospur Pachhiyari Tol,
P.S.- Dalsingh Sarai, District- Samastipur
 2. Gunjan Kumar S/o Dav Narayan Singh R/o village- Gospur Pachhiyari Tol,
P.S.- Dalsingh Sarai, District- Samastipur

... .. Appellants

Versus

1. The State of Bihar
2. Vijay Kumar S/o Yogendra Mahto R/o village- Bhagwanpur Chakshekhu,
Ward 01, Near Ashok Nagar, P.S.- Dalsingh Sarai, District- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Kundan Kumar, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-01-2020 Heard learned counsel for the appellants. No one appears on behalf of the State to oppose this appeal.

The appellants in this case are seeking setting aside of the order dated 23.10.2019 passed by learned Ist Additional Sessions Judge, Samastipur in A.B.P. No. 2218 of 2019 arising out of Samastipur SC/ST P.S. Case No. 28 of 2019 registered for the offences punishable under Sections 323, 34, 341, 379, 504, 506 of the Indian Penal Code and Sections 3(1)(r) and 2(1)(s) of SC/ST (Prevention of Atrocities) Act.

By the impugned order prayer of anticipatory bail of the appellants has been rejected.

Learned counsel for the appellants submits that the



present case has been lodged on 02.08.2019 for the occurrence of 24.07.2019. It is further submitted there is general and omnibus allegation against all the accused persons. Except Section 379 of the Indian Penal Code and the provisions of the SC/ST (P.O.A.) Act other offences alleged under the provisions of the Indian Penal Code are bailable, section 379 IPC is only by way of super addition and no injury has been noticed in the case diary by the learned court below.

Considering the facts and circumstances of the case wherein it is the submission of learned counsel for the appellants that save and except the allegation under Section 379 of the Indian Penal code and under the provisions of the SC/ST (P.O.A.) Act the, other offences alleged under the provisions of the Indian Penal Code are bailable and so far as the allegation under Section 379 IPC is concerned, the same is a supper imposition and no injury has been noticed in the case diary by the learned Special Court while rejecting the prayer for anticipatory bail as also there being no opposition on behalf of the State, the impugned order dated 23.10.2019 passed by learned Ist Additional Sessions Judge, Samastipur in A.B.P. No. 2218 of 2019 arising out of Samastipur SC/ST P.S. Case No. 28 of 2019 is hereby set-aside.



Let the appellants above named in case of their arrest or surrender within a period of four weeks from today in connection with Samastipur SC/ST P.S. Case No. 28 of 2019 be released on bail on furnishing of bail bond of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (POA) Act, Samastipur, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

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