

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1404 of 2021

Arising Out of PS. Case No.-75 Year-2019 Thana- NADI P.S. District- Patna

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1. BUDHAN RAI S/O LALJIT RAY R/o village- Jethuli, P.S.- Nadi, District- Patna
 2. Bitu Rai S/o Laljit Ray R/o village- Jethuli, P.S.- Nadi, District- Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Budhan Das S/o Horil Das R/o village- Jethuli, P.S.- Nadi, District- Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rudra Deo
For the Respondent/s : Mr.A.G

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 26-05-2021 Heard learned counsel for the appellants and the State through virtual mode.

Learned counsel for the appellants is directed to remove the defect(s), as pointed out by the office, within a period of four weeks after restoration of normalcy.

At the outset, learned counsel for the appellants submits that during pendency of this appeal, the appellant No. 1 has been taken into judicial custody and hence this appeal as against the appellant No. 1 has become infructuous.

Accordingly, this appeal with regard to appellant No. 1 is dismissed as withdrawn being infructuous.

Now learned counsel moves this appeal with regard to appellant No. 2 only.



The matter relates to grant of anticipatory bail to the appellant No. 2 in connection with Special Case No. 186 of 2019 arising out of Nadi P.S. Case No. 75 of 2019 registered for the offences under Sections 341, 323, 307, 354, 379, 504, 34 of the Indian Penal Code and Sections 3(1)(r) of the SC/ST (POA) Act.

Allegedly, while the informant was in his house, the accused persons entered the house and started abusing and assaulting the brothers of informant. While the informant tried to rescue them, one Akash Rai assaulted the informant on his head causing bleeding injury.

It has been submitted on behalf of the appellant No. 2 that the appellant has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellant. The appellant No. 2 has falsely been implicated in the present case. General and omnibus allegation has been made against the appellant No. 2. No specific overt act is alleged against the appellant No. 2. The other co-accused (appellants) with similar allegation have been granted anticipatory bail vide Annexure-2 to the present appeal. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant No. 2 is named in the Complaint Case/F.I.R.

In view of the aforesaid facts and circumstances, the order



dated 07-10-2020 passed by learned Special Judge, SC/ST Act, Patna in Special Case No. 186 of 2019 arising out of Nadi P.S. Case No. 75 of 2019 is set aside with regard to appellant No. 2 only. The present Criminal Appeal is allowed with regard to appellant No. 2 only.

Let the appellant No. 2, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Special Judge, SC/ST Act, Patna in connection with Special Case No. 186 of 2019 arising out of Nadi P.S. Case No. 75 of 2019.

Once the normalcy is restored, the appellant No. 2 shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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