

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.1273 of 2021**

**In
CRIMINAL MISCELLANEOUS No.33351 of 2020**

Arising Out of PS. Case No.-149 Year-2020 Thana- DHURAIYA District- Banka

1. BALRAM SINGH Son of Madan Mohan Singh Resident of village - Birniya, Police Station - Dhoraiya, District - Banka.
2. Pintu Singh @ Bikram Singh @ Vikram Singh Son of Balram Singh Resident of village - Birniya, Police Station - Dhoraiya, District - Banka.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Pankaj Kumar, Advocate Mr. Kamlesh Kumar Pathak, Advocate
For the Informant	:	Mr. Mirtyunjay Kumar Mishra, Advocate
For the Respondent/s	:	Ms. Usha Kumari, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

7 01-07-2021 Learned counsel for the appellants undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

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

Appellants in the present case are seeking to set aside the orders dated 17.08.2020 and 17.12.2020 passed by the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST, Banka passed in Dhoraiya P.S. Case No. 149 of 2020 registered for the offences punishable under Sections 302 and 34 of the



Indian Penal Code along with Section 3(2)(VA) of SC/ST Act whereby and whereunder their prayer for regular bail was rejected.

Learned counsel for the appellants submits that the present case is one of false implication of the appellants. According to him neither the informant is an eye-witness nor any other independent witness has come forward in course of investigation to support the allegations against the appellants.

Learned counsel for the informant has opposed the prayer for bail of the appellants. It is submitted that while it is true that informant is not an eye-witness as per his statement but soon after the alleged occurrence he had reached at the place of occurrence and he claims that he had seen the appellants fleeing away at some distance.

Learned counsel further submits that no eye-witness has turned up to support the prosecution case because of the clout of the appellants in the village. Learned counsel for the informant has submitted that the post-mortem report shows injuries on the body of the deceased.

Learned Spl. P.P. for the State has also opposed the prayer for regular bail of the appellants, however, on repeated query of this Court she has stated that there is no independent



witness to this occurrence.

Having regard to the facts and circumstances of the case wherein neither the informant is a witness to the alleged occurrence nor any independent witness has come forward to make any statement in course of investigation to support the prosecution case, the appellants have no criminal antecedent, they have remained in custody for about one year, investigation against them is complete but the trial is not likely to be concluded in near future, this Court sets aside the impugned orders. Let the appellants above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Banka in connection with Dhuraiya P.S. Case No. 149 of 2020 corresponding to G.R. No. 78 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such 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 or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage it is found that the appellants have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This appeal stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

