IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.413 of 2020

Arising Out of PS. Case No.-231 Year-2019 Thana- BANIAPUR District- Saran

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MOHIT KUMAR RAM Son of Budh Ram, Resident of Village - Pithauri, P.S.- Baniyapur, District - Saran at Chapra

... ... Appellant/s

Versus

The State of Bihar

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr.Radha Mohan Singh, Adv.
For the Respondent/s : Ms. Usha Kumari 1, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

4 26-02-2021 Heard Mr. Radha Mohan Singh, learned counsel for the appellant and Ms. Usha Kumari No.1, learned Special P.P.

The appellant filed this appeal under Section 14A(2) of the SC/ST (POA) Act against the order dated 22.11.2019 passed by learned 1st Additional Sessions Judge, Saran at Chapra in A.B.P. No.3262 of 2019 by which the prayer for grant of anticipatory bail to the appellant was rejected in Baniyapur P.S. Case No.231 of 2019 registered under Sections 147, 148, 149, 341, 323, 302, 504, 506 of the I.P.C. and under Section 3(1)(s) of the SC/ST (POA) Act.

The informant alleged that on 19.07.2019 while his brother Naushad Alam was inside the house, Raju Nat and Videsh Nat came and took his brother with pick-up van to bring cattle. It is further alleged that when they reached to the house

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of Budh Ram, Shankar Ram, Raju Kumar, Budh Ram, Dahari Ram, Satya Narayan Ram, Bhola Ram, Patel Sah, Nand Kishore Panheri and about 50-100 unknown persons of Pithauri Nand Lal Tola came and indiscriminately assaulted his brother, Raju Nat and Videsh Nat. Two persons died on the spot and one of them was brutally injured, who died on the way to the hospital.

Learned counsel for the appellant submits that the appellant is not named in the F.I.R. There is no eye witness of the occurrence. The informant did not name the appellant in his statement recorded before the police. It is further submitted that for the same occurrence, Baniyapur P.S. Case No.230 of 2019 was registered on the statement of Budh Ram on whose darwaja the occurrence took place. Budh Ram disclosed that the thieves committed theft of his cattle and on alarm many villagers came, who caught the thieves and brutally assaulted them. Budh Ram disclosed the names of Bhikhari Ram, Bhuwan Ram, Tribhuwan Ram, Dharmendra Ram, Anita Devi, Prabhawati Devi and many others but even Budh Ram did not disclose the name of the appellant. It is further submitted that during the course of investigation, for the first time, the name of the appellant surfaced in the case in the supervision note of S.D.P.O., who disclosed that Mohit Ram son of Budh Ram also participated in

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the occurrence. In para 141 of the case-diary the name of the appellant surfaced. It is further submitted that many other accused persons such as Dharmendra Ram and Dahari Ram have been granted bail vide order passed in Cr.Appeal (SJ) No.4633 of 2019 and Cr.Appeal (SJ) No.4704 of 2019 respectively. The case of the appellant stands on better footing.

Ms. Usha Kumari No.1, learned Special P.P. vehemently opposed the prayer for bail.

Having considered the submissions and on perusal of the record, it appears that the name of the appellant did not find place either in the F.I.R. lodged by the brother of one of the deceased or in the F.I.R. lodged by Budh Ram. Budh Ram is the person on whose darwaja the occurrence is said to have taken place. The appellant is the son of Budh Ram and three persons on mere allegation of theft of cattle were killed. It is a case of mob lynching on simple allegation of theft.

Taking into consideration the facts aforesaid, I am not inclined to enlarge the appellant on anticipatory bail. Accordingly, the same is rejected.

The appeal is dismissed.

However, if the appellant surrenders in the court below, the learned court below shall consider the prayer for

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regular bail of the petitioner without being prejudiced from the order of this Court and taking into consideration that two persons, namely, Dharmendra Ram and Dahari Ram, who were named in the F.I.R., have been granted regular bail and dispose of the bail petition.

(Prabhat Kumar Jha, J)

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