

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)  
CRIMINAL APPEAL (SJ) No.1645 of 2021**

Arising Out of PS. Case No.-282 Year-2020 Thana- SHAMBHUGANJ District- Banka

1. FANTUSH SINGH S/O HARIBOL SINGH R/O VILLAGE-KHESAR RATA, P.S.-KHESAR (FULLIDUMAR), DISTRICT- BANKA
2. GOURAV SINGH S/O MANOJ SINGH R/O VILLAGE-KHESAR RATA, P.S.-KHESAR (FULLIDUMAR), DISTRICT- BANKA

... .. Appellants

Versus

THE STATE OF BIHAR

... .. Respondent

**Appearance :**

|                      |   |                                   |
|----------------------|---|-----------------------------------|
| For the Appellant/s  | : | Mr. Sanjay Kumar Jha, Advocate    |
| For the Informant    | : | Mr. Pramod Kumar Thakur, Advocate |
| For the Respondent/s | : | Mr. Sadanand Paswan, Spl. PP      |

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

3      18-05-2021                      Heard learned counsel for the appellants, learned counsel for the informant and learned Spl. P.P. for the State.

The appellants in the present case are seeking to set aside the order dated 24.12.2020 passed by learned Addl. Sessions Judge-V, Banka in G.R. No. 129 of 2020, arising out of Shambhuganj P.S. Case No. 282 of 2020 registered for the offences under Sections 302/201/120(B)/34 of the Indian Penal Code and under Section 3(2)(V) of the SC/ST Act by which the prayer for regular bail of the appellants was rejected.

Learned counsel for the appellants submits that as per the prosecution story, the brother of the informant was driving the tractor which met with an accident. The occurrence took place on 30.09.2020. It is alleged that the local villagers assembled at the



place of occurrence and they took away the driver and khalasi of the vehicle. The khalasi was released but the driver was kept in custody and a sum of Rs. 55,000/- was demanded by the family of the injured person.

Learned counsel submits that although the informant claims that he was coming on a motorcycle behind the tractor but the fact remains that he did not furnish any information as regards the occurrence to the nearest police station for two days. On 02.10.2020 in the morning the dead body of the brother of the informant was found in the water of Rajoun canal at village Jhaluchak whereafter the informant claimed that seven named accused persons and twenty unknown persons had their hand in killing of his brother. It was alleged that the body of the brother of the informant was thrown in the canal.

Learned counsel submits that the informant is not the eye-witness to the alleged occurrence. In course of investigation the khalasi Vikash Yadav had made altogether a different statement in paragraph '87' of the case diary. It is submitted that similarly situated co-accused Amit Bhagat and Anuj Bhagat have been granted bail by a learned co-ordinate Bench of this Court in Cr. Appeal (SJ) No. 1202 of 2021. These appellants have otherwise no criminal antecedent.

On the other hand, learned counsel for the informant as



well as learned Spl. P.P. for the State have opposed the prayer for bail of the appellants. It is submitted that the appellants are said to be the participants in the mob that they had captured the driver of the vehicle after the accident. In course of argument, learned counsel for the informant as well as learned Spl. P.P. admit that the case of these two appellants stand on similar footing with the co-accused and on that ground there is no distinction.

Having regard to facts and circumstances of the case, considering that the First Information Report has been lodged after two days, there are altogether seven named and twenty unnamed accused in the F.I.R. and similarly situated persons have been granted bail by a learned co-ordinate Bench of this Court, the appellants have remained in jail since 16.10.2020, they have otherwise no criminal antecedent, this Court sets aside the impugned order and directs release of the appellants 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 G.R. No. 129 of 2020, arising out of Shambhuganj P.S. Case No. 282 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.

**(Rajeev Ranjan Prasad, J)**

arvind/rajeev

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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'

