

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1755 of 2021**

Arising Out of PS. Case No.-234 Year-2020 Thana- GUTHANI District- Siwan

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1. CHHABILA YADAV @ RAMCHHABILA YADAV, SON OF RAMBILASH YADAV
 2. RAMBILASH YADAV, SON OF LATE SAGAR YADAV
Both R/O VILLAGE - TARAWAN KHURD, POLICE STATION - GUTHANI, DIST. - SIWAN

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rakesh Kumar Sharma, Advocate
For the Respondent/s : Smt. Usha Kumari 1, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER**

4 06-09-2021 Heard the parties in virtual Court.

Viscera report received in sealed cover. Seal was opened. After perusal again resealed. Let it be sent to the Court concerned so that the trial may not hamper, with information to the Director, Forensic Science Laboratory, Bihar, Patna.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for regular bail vide order dated 04.02.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Siwan in connection with Guthani P.S. Case No. 234 of 2020 registered under Sections 363, 302/34 of the Indian Penal Code, Sections 25(1-b)a and 26 of the Arms



Act as well as Sections 3(2)(v)/3(2) of the SC/ST Act

According to FIR, ten persons named in the FIR including the appellants took the son of the informant abusing him by taking caste name on the allegation that the son of the informant was in love with a girl of the family of the accused persons. When the informant and others followed them, the accused persons stopped them by saying that in the morning, the boy would be allowed to go. In the morning, the informant found that his son was bitterly assaulted which resulted in his death. The Doctor has found one abrasion at the left leg, a fracture of upper tibia and fibula and one more abrasion at the forearm besides multiple injury at the back. On the basis of aforesaid external injury, the Doctor could not form any opinion regarding cause of death and viscera was sent for examination. The viscera report does not reveal any external poisonous substance.

Learned counsel for the appellants submits that there is no eyewitness of the actual occurrence. The appellants are victim of over implication. Nine pieces of live cartridges were found near the dead body. Hence, chances of death in some criminal activity cannot be ruled out.

Learned counsel for the informant submits that



there is strong circumstantial evidence against the appellants and others for the reason that the deceased was taken away by the FIR named accused persons and, in the morning, his dead body was found. External injuries on the persons of the deceased would show that he was assaulted.

Considering lack of corroboration regarding the manner of death of the son of the informant and, in the background of the allegation, chances of over implication cannot be ruled out for the purpose of prayer for bail. Investigation of the case is already complete. Hence, let the appellants, above named, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with the aforesaid case, subject to the following conditions:-

(a) The appellants shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellants.

(b) Both the bailors shall be resident of the territorial jurisdiction of the learned court below.

(c) The appellants shall not leave the country without permission of the learned trial court.



Accordingly, the impugned order is set aside and
this appeal stands allowed.

(Birendra Kumar, J)

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