

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1950 of 2021**

Arising out of PS. Case No.-283 Year-2020 Thana- GOGRI District- Khagaria

1. Subhash Chandra Yadav @ Subhash Yadav @ Subhodh Yadav, aged about 45 years (Male), Son of Late Mahendra Yadav Resident of Village- Jarhi (Barhara), P.S.- Chautham, District- Khagaria.
2. Rabin Yadav @ Ravindra Yadav @ Rabin, aged about 50 years (Male), Son of Late Mahendra Yadav Resident of Village- Jarhi (Barhara), P.S.- Chautham, District- Khagaria.
3. Dhrambir Yadav, aged about 40 years (Male), Son of Late Mahendra Yadav Resident of Village- Jarhi (Barhara), P.S.- Chautham, District- Khagaria.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Binod Kumar, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 10-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the appellants on 03.08.2021, which was allowed.

3. Heard Mr. Binod Kumar, learned counsel for the appellants and Mr. Sadanand Paswan, learned Additional Public Prosecutor (hereinafter referred to as the 'Spl. PP') for the State.

4. Learned counsel for the appellants submitted that he may be permitted to withdraw the petition on behalf of appellant



no. 2, namely, Rabin Yadav @ Ravndra Yadav @ Rabin as he has been arrested.

5. In view thereof, as prayed for by learned counsel for the appellants the petition on behalf of appellant no. 2, namely, Rabin Yadav @ Ravndra Yadav @ Rabin stands disposed off as withdrawn and is restricted to appellants no. 1 and 3, namely, Subhash Chandra Yadav @ Subhash Yadav @ Subhodh Yadav and Dhrambir Yadav.

6. The present appeal is directed against the order dated 10.02.2021 passed by the learned Additional Sessions Judge 1st -cum-Special Judge, SC/ST Act, Khagaria in Gogri Paura PS Case No. 283 of 2020 by which prayer of pre-arrest bail of the appellants has been rejected.

7. The appellants apprehend arrest in connection with Gogri Paura PS Case No. 283 of 2020 dated 30.07.2020, instituted under Sections 147, 148, 149, 341, 323, 307, 379, 504 and 506 of the Indian Penal Code, 27 of the Arms Act and 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'SC/ST Act').

8. The allegation against the appellants is of threatening the informant with dire consequences as also of killing him for recovery of Rs. 50,000/-, which was due from the co-villager and



also of assault and dragging the informant to the medical shop and further of firing on the informant.

9. Learned counsel for the appellants submitted that the appellant no. 1 is a registered medical practitioner and owner of the medicine shop, reference of which has been given in the FIR. It was submitted that the informant owed Rs. 50,000/- which he had taken on loan from the appellant no. 1 and on demand he was not returning and hatched the false case. It was submitted that neither there is allegation of any abuse before any public as it has not been stated that there was any other person present there and further there is neither any injury nor any recovery of empty cartridges from the spot which points out to the false nature of the case. It was submitted that the story in the FIR is also unbelievable for the reason that there is no explanation as to why the informant would have been asked to repay the money which was due from another person. Learned counsel submitted that the appellants no. 1 and 3 have no criminal antecedent. It was pointed out that though the incident is said to have taken place on 16.07.2020, but the FIR has been lodged on 30.07.2020, after a delay of thirteen days without satisfactory explanation.



10. Learned Spl. PP submitted that as per the allegation, the appellants had threatened the informant and also abused by caste name.

11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the allegation of demand of money from the informant, which has been said to be due from someone else, has not been explained and further there is also no reasonable explanation for the delay as also there being no supporting material to indicate any injury, the Court is inclined to grant pre-arrest bail to the appellants no. 1 and 3.

12. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the appellants no. 1 and 3, namely, Subhash Chandra Yadav @ Subhash Yadav @ Subhodh Yadav and Dhrambir Yadav be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the Additional Sessions Judge 1st -cum-Special Judge, SC/ST Act, Khagaria in Gogri Paura PS Case No. 283 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the appellants, (ii) that the appellants and the



bailors shall execute bond and give undertaking with regard to good behaviour of the appellants, and (iii) that the appellants shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to cooperate shall lead to cancellation of their bail bonds.

13. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the appellants, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellants.

14. The impugned order dated 10.02.2021 passed by the learned Additional Sessions Judge 1st -cum-Special Judge, SC/ST Act, Khagaria in Gogri Paura PS Case No. 283 of 2020 is set aside.

15. The appeal stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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