

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2128 of 2021

Arising Out of PS. Case No.-221 Year-2020 Thana- HASPURA District- Aurangabad

1. LAKSHUMAN YADAV Son of Late Lalu Yadav Resident of Village - Nanhu Bigaha, P.S.- Hsapura, Distt.- Aurangabad.
2. Subalal Yadav Son of Late Dukhu Yadav @ Saryu Yadav Resident of Village - Nanhu Bigaha, P.S.- Hsapura, Distt.- Aurangabad.
3. Tikar Yadav @ Surrender Singh Son of Late Mathura Yadav @ Bahadur Yadav Resident of Village - Nanhu Bigaha, P.S.- Hsapura, Distt.- Aurangabad.
4. Satyendra Yadav Son of Dev Lal Yadav Resident of Village - Nanhu Bigaha, P.S.- Hsapura, Distt.- Aurangabad.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate
		Ms. Vaishnavi Singh, Adv.
For the Respondent/s	:	Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 06-07-2021 Heard learned counsel for the appellants and learned Special P.P. for the State through video conferencing.

The appellants have filed the instant appeal against the order dated 6.1.2021 passed by the learned Additional District and Sessions Judge-I-cum-Special Judge, SC/ST, Aurangabad whereby the prayer for bail of the appellants in connection with Haspura P.S. Case no. 221 of 2020 registered under section 302 and other sections of the Indian Penal Code and sections 3(1)(r)(s) and 3(2)(v) of the SC & ST (Prevention of Atrocities) Act, was rejected.

As per allegation in the F.I.R., it is stated by the informant



that his son was taken away by the appellant no.1 and one another to their house. He was abused in the name of his caste. Thereafter, the other ten named accused persons including the appellants herein as also 10 to 12 unknown assaulted him brutally with *Lathi, Danda*, Iron rod. On being injured, incorrect information was given to the police station about his being caught while committing theft. On police arriving and on the informant's son being taken to the hospital, he was declared dead by the doctor.

It is submitted by learned counsel for the appellants that from perusal of the F.I.R. itself, it would transpire that the informant is not an eye witness to the occurrence nor does he disclose the source of information. Even accepting the statement made in the F.I.R., for the sake of argument, the allegations are general and omnibus in nature of assault against 24 accused persons of which 12 are named. Referring to the material that has come in course of investigation, it is submitted that a counter case being Case no. 220 of 2020 was registered with respect to the commission of theft by the deceased. The appellants are in custody since 7.11.2020 and investigation in the case has concluded.

The appeal is opposed by learned Special P.P. appearing for the State who submits that it has come during course of investigation that the deceased son of the informant was having a love affair and as a result of the same he was assaulted leading to his death. Thereafter, the case of theft was registered to set up a defence.



Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the material that has transpired in the F.I.R. as also in the course of investigation and the appellants having remained in custody since 7.11.2020, the Court is inclined to allow the appeal. The appeal is allowed and the order dated 6.1.2021 passed by the learned Additional District and Sessions Judge-I-cum-Special Judge, SC/ST, Aurangabad passed in Haspura P.S. Case no. 221 of 2020 is set aside.

The above named four appellants are directed to be enlarged on bail in connection with Haspura P.S. Case no. 221 of 2020 on each of them furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-I-cum-Special Judge SC/ST, Aurangabad.

(Partha Sarthy, J)

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