

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.2842 of 2021**

Arising Out of PS. Case No.-412 Year-2019 Thana- BARHARA District- Bhojpur

1. MANU YADAV Son of Pancha Yadav Resident of Village - Saraiya, P.S.- Krishnagarh (Barahara), Distt.- Bhojpur.
2. Vikash Yadav Son of Manu Yadav Resident of Village - Saraiya, P.S.- Krishnagarh (Barahara), Distt.- Bhojpur.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sheo Jee Mishra, Adv.
For the Respondent/s : Ms. Usha Kumari-1, Spl.P.P.

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

2 08-07-2021 Learned counsel for the appellants undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellants and learned Spl. P.P. for the State.

The appellants in the present case are seeking to set aside the order dated 20.03.2021 passed by learned 1st Additional Sessions Judge, Bhojpur at Ara in connection with Barhara (Krishnagarh) P.S. Case No.412/2019 registered for the offences punishable under Sections 363/365 of the Indian Penal Code Act and Sections 3(2) (Va) of SC/ST Act whereby and whereunder the prayer for regular bail of the appellants has been



rejected.

Learned counsel for the appellants submits that as per the prosecution story the son of the informant went missing on the night of 12.11.2019. He lodged an First Information Report in this regard on 14.11.2019 wherein he expressed his apprehension that some unknown persons had taken away his son by alluring him.

Learned counsel submits that in course of investigation these appellants were taken into custody and they remained in custody since 03.12.2019. The appellants moved for grant of regular bail in Bail Petition No.2/2020 in the court of learned 3rd Additional District and Sessions Judge, Bhojpur at Ara which was allowed vide order dated 23.01.2020. A copy of the order has been brought on record as Annexure-2. A perusal thereof would show that these appellants were the applicants in the said case along with two others and their prayer for bail was allowed by the learned 3rd Additional District and Sessions Judge, Bhojpur, Ara.

Learned counsel submits that the appellants were, however, not released on bail in view of the subsequent case being Ara (Muffasil) (Dhobaha O.P.) P.S. Case No.309/2019 dated 27.11.2019 under Sections 302, 201 and 120B of the



Indian Penal Code read with Sections 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

It is his submission that same informant lodged this case after identifying the dead body of his son on 26.11.2019, this time he named these appellants along with others as an accused alleging that they had taken away the son of the informant and had burnt him and burnt dead body was thrown.

Learned counsel submits that this subsequent case was amalgamated with the first case, they moved a fresh bail application giving rise to B.P.No.583/2021 which has been rejected by the learned 1st Additional District and Sessions Judge-I, Bhojpur, Ara vide order dated 20.03.2021. It is, thus, his submission that in respect of the same matter and the allegations once the appellants were allowed the bail considering their custody etc., the learned 1st Additional District and Sessions Judge, Bhojpur, Ara is not justified in rejecting his prayer for bail on 20.03.2021.

Learned Spl. P.P. for the State has opposed the prayer for bail of the appellants, however, considering the facts and circumstances of the case and the materials on record showing that in the First Information Report (Annexure-1) the informant had expressed his apprehension against the unknown, in course



of investigation the name of these appellants transpired but then they were granted bail vide Annexure-2, Annexure-3 has been lodged subsequently on recovery of the dead body but this time a completely different version has been alleged in the FIR lodged by same informant, the appellants have remained in custody in connection with this case for over one and half year, they have otherwise no criminal antecedent as stated in paragraph '3' and it the submission of learned counsel for the appellants that if released on bail the appellants shall abide by the terms and conditions which may be imposed upon them, in the circumstances, 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 1st Additional Sessions Judge, Bhojpur, Ara-cum-Special Judge, Bhojpur, Ara in connection with Barahara (Krishnagarh) P.S. Case No.412/2019, 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 appellant 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/-

U		T	
---	--	---	--

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'.

