

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2055 of 2020

Arising Out of PS. Case No.-420 Year-2019 Thana- KHAJEKALA District- Patna

1. SHAHRUKH Son of Sarfuddin Resident of Chhoti bara, P.S. Khajekalan, District Patna.
2. Feku @ Shamim Son of Md. Salim Resident of Suee ki Masjid, P.S. Khajekalan, District Patna.

... .. Appellants.

Versus

The State of Bihar

... .. Respondent.

Appearance :

For the Appellants : Mr. Arvind Kumar Mouar, Advocate.
For the State : Ms. Usha Kumari-I, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

2 20-02-2021 In view of the submission of the learned counsel for the appellants, let the defect no.6(13) regarding the filing of the limitation petition, as pointed out by the Stamp Reporter, flagged at “A”, be ignored.

So far as the remaining defects, as pointed out by the Stamp Reporter, flagged at ‘A’, are concerned, as prayed for, let the learned counsel for the appellants remove the same within four weeks of starting of the Court proceeding in physical mode.

Heard learned counsel for the appellants and the learned Additional Public Prosecutor for the State.

This appeal under Section 14 A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,



1989, is directed against the impugned order dated 19.02.2020 passed by the Additional Sessions Judge-VIII-cum-Special Judge, SC/ST Act, Patna, rejecting the petition of the appellants to grant them bail in Special Case No.482 of 2019, arising out of Khajekalan P.S. Case No.420 of 2019, registered under Sections 302, 201 and 120(B)/34 of the Indian Penal Code and Sections 3(1)(r) 2(va) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, in brief, is that in the early morning of 07.10.2019, the informant Umesh Choudhary came to know about lying of the dead body of his son Sagar Kumar inside the Mazaar Lane, then the informant went there and saw that his son Sagar Kumar was lying dead there and his head was crushed through stone like plate and stone was also lying there. The son of the informant in the preceding evening had gone for walking but he did not return. In the morning at about 03.00 A.M on 07.10.2019, Gaurav Kumar, the friend of Sagar Kumar, the son of the informant, had come to his house and handed over the mobile set of Sagar Kumar to Saurav Kumar, another son of the informant, saying that in the night, he and Sagar Kumar had fell down in the water and to save the mobile set from water, Sagar Kumar had handed over the said mobile set to him. Gaurav Kumar further disclosed that when in the night at about



12.00 O'clock, Sagar Kumar along with his friends Banti and Nanhki was present near the mosque, at that time, Shahrukh (appellant no.1), the nephew (Bhagina) of Feku alias Md. Shamim (appellant no.2) had come and made demand of 'Gutka' for which the scuffle took place, in which Sagar assaulted to Shahrukh (appellant no.1), due to which Shahrukh (appellant no.1) became annoyed and moved from there to the house of his maternal uncle Feku (appellant no.2) giving threatening. At that time, some persons came on 2/3 motorcycles and started scuffling with Sagar and accompanied him boarding on motorcycle. Thereafter, Gaurav Kumar started the search of Sagar and, in the way, Badayam Bhaiya and Ranjan Bhaiya met him and they disclosed that Sagar was seen going towards his house. The informant also came to know from the persons present there that after scuffle in between his son Sagar Kumar and Shahrukh (appellant no.1), Feku alias Md. Shamim (appellant no.2), the maternal uncle of Shahrukh (appellant no.1), along with his friend Parparba alias Md. Jawed had come and abused to Sagar Kumar. The informant raised suspicion that due to that reasons, the aforesaid persons committed the murder of his son Sagar Kumar.

Learned counsel for the appellants submits that it



would appear from the F.I.R. that on mere suspicion, the appellants have been implicated in this case. While the witnesses, in paragraphs-17, 18 and 19 of the case diary, have stated the similar story as narrated by the informant in the F.I.R. but from their statements it is not clear that whether they are the eye witnesses of the occurrence. The appellants have no criminal antecedents and are in custody since 18.10.2019.

Having considered the facts and the circumstances of the case, the impugned order dated 19.02.2020 is set aside and this appeal is allowed. The appellants, above named, are directed to be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Additional Sessions Judge-VIII-cum-Special Judge, SC/ST Act, Patna, in connection with Special Case No.482 of 2019, arising out of Khajekalan P.S. Case No.420 of 2019.

(Rajendra Kumar Mishra, J)

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