

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3076 of 2021

Arising Out of PS. Case No.-218 Year-2020 Thana- KISHUNPUR District- Supaul

1. Dukhan Sah @ Dukhi Sah @ Dukha Sah, Son of Late Khattar Sah, Resident of Village - Parsamadhho, P.S. - Kishanpur, District - Supaul.
2. Shivam Kumar Sah, Son of Dukhan Sah @ Dukhi Sah @ Dukha Sah, Resident of Village - Parsamadhho, P.S. - Kishanpur, District - Supaul.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellants	:	Mr.Pramod Mishra, Advocate
For the S t a t e	:	Mr.Binay Krishna, Spl.P.P.
For the Informant	:	Mr. Kamal Kishore Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 16-09-2021 This matter has been taken up today for consideration through video conferencing in view of resurgence of COVID-19 Pandemic.

Heard learned counsel for the appellants and the learned Special P.P. for the State as well as the learned counsel for the informant.

The appellants have preferred the present appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act read with Sections 439 and 440 of the Code of Criminal Procedure, against the refusal of their prayer for regular bail, vide order dated 16.03.2021 passed by the learned court of Additional District & Sessions Judge 1st cum Special Judge, Supaul, in connection with SC/ST Case



No.104/2020 arising out of Kishanpur P.S.Case No.218 of 2020 instituted for the offence under Sections 341, 323, 302, 129B/34 of the I.P.C. and Section 3 (i)(r)(s) of the SC/ST Act and also for setting aside the aforesaid order dated 16.03.2021.

On 24.06.2020 for convening a *Panchayati*, the informant has made efforts and gone to appellants' house for calling Appellant No.1. It is alleged that due to subsisting land dispute, this *Panchayati* was convened and Appellant No.1 along with his four sons has indiscriminately assaulted the informant's brother.

Appellants' counsel submits that in respect of the alleged occurrence dated 24.06.2020, the FIR has been lodged on 17.07.2020. The FIR has been lodged as an afterthought after the death of the informant's brother due to single head injury and after prolonged treatment of the said injury, as is evident from the post-mortem report. Implication is based on subsisting land dispute, which is apparent from the FIR itself. The appellants are accused in one more case since before and in the said case they are on bail. They are in custody in connection with this case since 19.01.2021.

Learned Special P.P. for the State and the learned counsel for the informant have opposed the prayer for bail.



However, they are not in a position to point out from the post-mortem report that indiscriminate assault by Appellant No.1 along with their four sons stands corroborated by the post-mortem report.

Considering the rival submissions, this Court is inclined to allow appellants' prayer for bail.

Accordingly, let the appellants, above named, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge 1st cum Special Judge, Supaul, in connection with SC/ST Case No.104/2020 arising out of Kishanpur P.S.Case No.218 of 2020.

In the result, the appeal is allowed and the impugned order dated 16.03.2021 is set aside.

This Court would expect that the appellants' counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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