

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3405 of 2021

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

1. Vidyanand Sah, aged about 36 years, male, Son of Dukhan Sah @ Dukhi Sah Resident of Village - Parsamadhoo, P.S. - Kishanpur, District - Supaul.
2. Devu Sah @ Devanand Sah, aged about 27 years, male, Son of Dukhan Sah @ Dukhi Sah Resident of Village - Parsamadhoo, P.S. - Kishanpur, District - Supaul.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pramod Mishra, Adv.
For the State	:	Mr. Sadanand Paswan, Spl PP
For the informant	:	Mr. Kamal Kishore Singh Adv.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

- 3 20-09-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

Re. I.A. No. 01 of 2021

The present Interlocutory application has been filed under Section 5 of the Limitation Act, 1963 for condoning the delay.

Learned counsel for the appellants' submits that the delay in filing the appeal has occurred on account of some delay in availability of certified copy and thereafter inability to contact the counsel due to various restrictions imposed during the Covid-19 pandemic.



Considering the aforesaid submissions, without opposition, the petition for limitation is allowed. The appeal is deemed to have been filed within time.

I.A. No. 01 of 2021 stands allowed.

It is submitted by the appellants' counsel that due to inadvertence Kishanpur P. S. Case No. 95 of 2015 could not be mentioned in appeal in the disclosure of antecedents. The said details has already been brought on record by way of supplementary affidavit.

Learned counsel for the appellants is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

Heard learned counsel for the appellants, informant and learned Spl PP for the State.

The appellants have preferred the present appeal under Section 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity, *SC/ ST Act*) against the refusal of his prayer for regular bail vide order dated 01.03.2021 passed by learned Additional District and Sessions Judge -1st-cum -Special Judge, Supaul, in a case registered under Sections 341,323,302, 120B/34 of the Indian Penal Code



and Sections 3(i)(r)(s) of the SC/ST, in connection with SC/ST Case No. 104 of 2020, arising out of Kishanpur P. S. Case No. 218 of 2020.

On 24.06.2020 for convening a “*Panchayati*”, the informant has made efforts and gone to appellants’ house for calling co-accused Dukhan Sah. It is alleged that due to subsisting land dispute, this *Panchayati* was convened and co-accused, Dukhan Sah 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 postmortem report. Implication is based on subsisting land dispute, which is apparent from the FIR itself. The appellants are in custody since 19.01.2021. Similarly situated co-accused have been allowed bail vide order passed in Cr. Appeal (SJ) No. 3076 of 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 postmortem



report that indiscriminate assault by co-accused Dukhan Sah along with their four sons stands corroborated by the postmortem 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 01.03.2021 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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