

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.135 of 2021**

Arising Out of PS. Case No.-83 Year-2020 Thana- GAURICHAK District- Patna

1. RAJU MAHTO Son Of Ravindra Prasad Resident Of Gopal Tola , P. S. - Gaurichak, District - Patna.
2. Shyam Babu Ram Son Of Ramjee Ram Resident Of -Gopal Tola,P.S.- Gaurichak, District - Patna.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Rajeev Kumar Sinha, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

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

5 07-07-2021 Learned counsel for the appellants undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellants and Mr. Binay Krishna, learned Spl. P.P. for the State.

The appellants in the present case are seeking setting aside of the order dated 9.6.2020 passed by learned A.D.J.-8th cum Special Judge, SC/ST Patna in connection with Special Case No. 155 of 2020 arising out of Gaurichak P.S. Case No. 83 of 2020 registered for the offences punishable under Section 147, 148, 149,109, 448, 341, 323, 302, 201, 501 of the Indian Penal Code and Section 3 (2) (v) of SC/ST (Prevention of Atrocities) Act whereby and whereunder the prayer for bail of the appellants was rejected.



Learned counsel for the appellants submits that as per the prosecution story, on 20.3.2020 the father of the informant was fishing in the Dardha river at the same time one Manikchand Mahto forbade him from fishing in the river, when the father of the informant refused to do so the said Manikchand along with other co-accused came home and abused the informant by calling names. It is further alleged that other seven accused persons including these appellants arrived there lashed with weapons and searched for the father of the informant and assaulted the informant and the mother of the informant but they did not find him. It is further alleged that on 21.3.2020 the dead body of the father of the informant was recovered and on this basis the present case has been instituted against the accused persons.

Learned counsel for the appellants submits that the appellants are innocent and has falsely been implicated in the present case. It is submitted that there is no eye-witness to the alleged occurrence. It is further submitted that the similarly situated co-accused have already been granted bail. The Appellants are in custody since 21.3.2020 having no criminal antecedent.

Learned Spl. P.P. for the State has opposed the prayer for bail of the appellants.

Having regard to the facts and circumstances of the case wherein this appellant is named as one amongst the 12 accused named in the FIR, there is no eye-witness to the alleged



occurrence and the Court has been informed that the four accused similarly situated to the appellant have been granted bail and some of them have been granted privilege of anticipatory bail, the order of the learned co-ordinate Bench of this Court in Cri. Appeal No. (SJ) No. 2142 of 2020 has been referred to, in these facts and circumstances, this Court sets aside the impugned order and directs release of the appellant on bail above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Addl. District and Sessions Judge-8th -cum- Special Judge, Scheduled Caste/ Scheduled Tribe, Patna in connection with Special Case No. 155 of 2020 arising out of Gaurichak P.S. Case No. 83 of 2020, subject to the conditions 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 is suspected, and

(c) that such persons shall not directly or indirectly make and 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 appellants have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. 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.

This appeal stands allowed.

(Rajeev Ranjan Prasad, J)

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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'.

