

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.133 of 2021**

Arising Out of PS. Case No.-147 Year-2018 Thana- NIMCHAKBATHANI District- Gaya

MALTI DEVI W/o Late Deo Gaj Mahto Resident of Village - karu Bigha,
P.S.- Neemchak Bathani, Distt.- Gaya.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

with

CRIMINAL APPEAL (SJ) No. 211 of 2021

Arising Out of PS. Case No.-147 Year-2018 Thana- NIMCHAKBATHANI District- Gaya

RANJIT KUMAR Son of Late Deo Gaj Mahto Resident of Village - Karu
Bigha, P.S.- Neemchak bathani, Distt.- Gaya.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

(In CRIMINAL APPEAL (SJ) No. 133 of 2021)

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

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

(In CRIMINAL APPEAL (SJ) No. 211 of 2021)

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

For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

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

- 5 14-07-2021 At the outset, learned counsel for the appellants submits that the appellants are accused in ‘Nimchakbathani Police Station Case No. 147 of 2018’ but due to typographical error in the impugned order it has been mentioned as ‘Nimchakbathani Police Station Case No. 147 of 2020’ and the same has been typed in the first paragraph. in aggrieved portion and also in prayer portion of the present applications. It is further submitted that the office has also pointed out the said defects including other defects.



Learned counsel for the appellants in both the appeals undertakes to remove all the defects by filing supplementary affidavit containing the order showing correction in the impugned order also.

In the aforesaid view of the matter, learned counsel for the appellants is permitted to do so by filing supplementary affidavit annexing the order showing correction in the impugned order within four weeks after start of normal functioning of this Court.

Heard learned counsel for the appellants and learned Special P.P. for the State in both the appeals.

The appellants in these cases are seeking setting aside of the order dated 21.9.2020 passed by learned Exclusive Special Judge, SC/ST, Gaya in connection with Neemchak Bathani P.S. Case No. 147 of 2018 registered for the offences punishable under Section 364 of the Indian Penal Code and Section 3(i)(r)(s) of SC/ST Act whereby and whereunder the prayer for bail of the appellants were rejected.

Learned counsel for the appellants submits that as per the prosecution story, the daughter of the informant along with her two and half years old son went to her matrimonial house to attend the Shraddh of her husband's father. It is alleged that on 15.10.2018 when the informant went to the house of Ranjeet Kumar and asked about her daughter and grandson the accused persons abused him by calling his caste name and drove him away. It is further alleged that the informant could not find his daughter and grandson and alleged



that they have been disappeared by the appellants.

Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. It is submitted that there are no specific allegations against these appellants. The appellants are in custody since 9.2.2020 having no criminal antecedent.

Learned counsel for the State has opposed the prayer for bail of the appellants but accepts that the case is based on suspicion.

Having regard to the facts and circumstances of the case wherein it is the submission of learned counsel for the appellants in both the appeals that they are the mother-in-law and husband of the daughter of the informant, the husband is said to have solemnized another marriage, the daughter of the informant along with her son had come to her father's village but thereafter daughter of the informant with her son had allegedly gone to the house of the appellants to attend the shradhh ceremony of her father, however the date on which she had gone to the house of the appellants is not disclosed in the FIR, the informant claims that he had gone to find the whereabouts of her daughter and her son on 15.10.2018 and on the said date he was abused by taking his caste names and then the accused persons tried to assault the informant but the FIR has been lodged after almost one month from the date of alleged



occurrence, on 3.11.2018, in course of investigation except mere suspicion no other material has come, Mr. Binay Krishna, learned Special P.P. for the State accepts that in the case diary there is no material save and except the suspicion, the appellants have remained in jail in connection with this case since 9.2.2020, investigation against them is complete but the trial is not likely to be taken up in near future, this Court sets aside the impugned order and directs the release of the appellants 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 Exclusive Special Judge, SC/ST, Gaya in connection with Neemchak Bathani P.S. Case No. 147 of 2018, 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 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.

The application 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'.

