

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.716 of 2021**

Arising Out of PS. Case No.-80 Year-2020 Thana- BALIGAON District- Vaishali

1. UMESH RAI @ UMESH PRASAD RAI RO VILLAGE CHAKJADO, P.S BALIGAON, DISTRICT-VAISHALI.
2. RAMESH RAI @ RAMESH KUMAR RAI S/O AWADH BIHARI RAI RO VILLAGE CHAKJADO, P.S BALIGAON, DISTRICT-VAISHALI.
3. RAHUL KUMAR RAI @ RAHUL KUMAR S/O KHAGESH RAI RO VILLAGE CHAKJADO, P.S BALIGAON, DISTRICT-VAISHALI.
4. RANVIR KUMAR RAI @ YASWANI RAI @ BITU RAI S/O UMESH RAI RO VILLAGE CHAKJADO, P.S BALIGAON, DISTRICT-VAISHALI.
5. NAVIN KUMAR @ GUDDU RAI S/O UMESH RAI RO VILLAGE CHAKJADO, P.S BALIGAON, DISTRICT-VAISHALI.

... .. Appellant/s

Versus

THE STATE OF BIHAR BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Md. Shahnawaz Ali, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 30-09-2021 Heard Mr. Md. Shahnawaz Ali, learned counsel
for the appellants.

The appellants have challenged the order dated 20.09.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Hajipur, Vaishali in A.B.P. No. 2288 of 2020 arising out of Baligaon P.S. Case No. 80 of 2020, whereby the prayer made on behalf of the appellants for grant of pre-arrest bail for the offences under Sections 147, 148, 149, 34, 323, 324, 302 and 120B of the Indian Penal Code, Section



27 of the Arms Act and Sections 3(i)(A)(r)(s), 3(2) of the SC/ST (Prevention of Atrocities) Act has been rejected.

The accusation against the appellants and many others is of having strangled the mother of the informant which led to her death. The accusation against the appellants is also of abusing the members of the prosecution party by taking their caste names.

It has been alleged that the occurrence took place because of a protest against some of the accused persons consuming liquor in the house of one Sobha Kumari.

Mr. Md. Shahnawaz Ali, learned counsel for the appellants has submitted that an absolutely false case has been lodged by the informant against the appellants. The post-mortem report of the deceased, it has been argued, clearly indicates that the death was not on account of strangulation as has been alleged in the FIR. Precisely for this reason, the cause of death could not be ascertained and viscera has been preserved. It has thus been submitted that an unreasonable story has been spun by the informant in order to frame the appellants.

Learned counsel for the appellants has also drawn the attention of this Court to the tainted background of the informant and others.



So far as the accusation under the SC/ST (Prevention of Atrocities) Act is concerned, the allegation of hurling abuses has only been added in order to add seriousness to the offence.

This Court had on 10.08.2021 called for the case diary and had granted provisional bail to the appellants.

The case diary has since been received.

There is no tangible evidence in the entire police papers to justify such accusation against the appellants. So far as the post-mortem report is concerned, it reveals that the cause of death is unascertainable. There were no external injuries on the dead body.

Considering the aforesaid facts, the order dated 20.09.2020 is set aside.

The provisional bail granted to the appellants on 10.08.2021 is hereby confirmed. The appellants shall remain on the same bail bonds.

The appeal stands allowed.

(Ashutosh Kumar, J)

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