

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.475 of 2022

Arising Out of PS. Case No.-270 Year-2021 Thana- MINAPUR District- Muzaffarpur

-
-
1. POONAM KUMARI D/O- RAM KISHORE RAI R/O VILLAGE- KHARIKADIH, P.S.- MINAPUR (PANAPUR O.P.), DISTRICT- MUZAFFARPUR
2. MINTU DEVI W/O- RAM KISHORE RAI R/O VILLAGE- KHARIKADIH, P.S.- MINAPUR (PANAPUR O.P.), DISTRICT- MUZAFFARPUR
- Appellant/s

Versus

1. The State of Bihar
2. JITENDRA KUMAR SON OF MAHESH RAM R/O VILLAGE- KHEDI PAKAR, P.S.- SAHEBGANJ, DISTRICT- MUZAFFARPUR
- Respondent/s

Appearance :

For the Appellant/s : Ms. Anjana, Advocate
For the Respondent/s : Ms. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 05-09-2022 Heard learned counsel for the parties.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 24.01.2022 in A.B.P. No. 3871 of 2021 passed by the learned 3rd Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Muzaffarpur in connection with Minapur P.S. Case No. 270 of 2021 registered under Sections 342, 302, 120(B)/34 of the Indian Penal Code as well as Sections 3(1)(r) (s), 2(v)(va) of the SC/ST Act.



Learned counsel for the appellants submits that the appellants are persons with clean antecedent.

The informant alleges that on 28.07.2021, the accused Om Prakash Rai came and called his brother-in-law Rajesh Kumar (deceased) and took him away on the pretext of some urgent work. Further, in between 12:00-01:00 a.m. the family members of the deceased received information that all the accused persons including the appellants have assaulted Rajesh Kumar who is being taken to the hospital, accordingly, the family members and the informant went to the hospital where Rajesh Kumar disclosed that all the accused persons including the appellants have assaulted him. Further the Doctor referred him to SKMCH, Muzaffarpur where the Doctor declared him dead. It is next alleged that the occurrence took place as the deceased and appellant no. 1 were in love which was being objected by the family members of the appellant no. 1.

Learned counsel for the appellants submits that the appellants have been falsely implicated in the present case and from bare perusal of the allegation as alleged in the FIR, it would manifest that deceased was called by Om Prakash Rai and he accompanied him willingly. He further submits that if



deceased had any apprehension with the family members of the appellant no. 1 then definitely he would have not accompanied them nor the family members of deceased would have allowed him to accompany Om Prakash Rai. He next submits that the FIR does not disclose as to who gave information to the informant with regard to assaulting of the deceased by the appellants. Learned counsel next draws the attention of the Court to the FIR to submit that the deceased was taken to the hospital and seeing his serious condition, he was referred to SKMCH, Muzaffarpur where the doctor declared him dead. He, thus, submits that since the condition of the deceased was such that the hospital where he was taken at the first instance was not in a position to treat him on account of seriousness of the assault and, thus, he was referred to the higher centre where he was declared dead that in itself demonstrates that the deceased was not in a position to speak. He also submits that appellant no. 1 is a young girl, aged about 19 years, was in love and appellant no. 2 is her mother and the allegation of assault as alleged by the informant even presumed to be true without admitting then he was not an eye witness to the occurrence and the allegations are general and omnibus in nature. He further submits that even the place of occurrence is not disclosed as to where the deceased



was assaulted and in the nature of allegation prima facie no offense under the SC/ST Act is made out against the appellants as the entire allegation hinges around suspicion and appellant no. 1 absolutely had no motive to kill the person whom she loved.

Learned Special Public Prosecutor opposed the prayer for anticipatory bail.

Considering the submissions made by the learned counsel for the appellants, let the appellants, above named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bonds of Rs.5,000/- (rupees five thousand) each with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Satyavrat Verma, J)

Kundan/-

U		T	
---	--	---	--

