

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3755 of 2021

Arising Out of PS. Case No.-150 Year-2020 Thana- MADHWAPUR District- Madhubani

1. VISHESHWAR SADA Son of Late Saryug Sada Resident of Village - Balba, P.S. - Madhwapur, Dist. - Madhubani.
2. Maulvi Mandal @ Molbi Khatabe Son of Ram Lalit Mandal Resident of Village - Balba, P.S. - Madhwapur, Dist. - Madhubani.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Bilat Paswan Late Gopal Paswan R/o Village-Haripatti , Nahar Kenar, P.S.- Bahadurpur, District -Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Shailendra Kumar Jha, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 24-03-2022 Heard learned counsel for the appellants and learned Spl.P.P. for the State.

Vide order dated 13.12.2021, notice was directed to be issued upon the respondent no.2 and as per office notes dated 16.02.2022, though notice has been duly received by the son of the respondent no.2, which is a valid service of notice, but nobody appears on behalf of the respondent no.2. However, the respondent no.2/informant, a Government police official is being represented by learned Spl.P.P. for the State.

Learned counsel for the appellants undertakes to remove the defects within four weeks of resumption of normal court proceedings. In the eventuality of non-removal of defects within



stipulated period, office will place the matter before the Bench.

This is an appeal under section 14 (A) (2) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail vide order dated 20.07.2021, passed by learned Additional Sessions Judge-2nd -cum- Special Judge, Excise Act, Madhubani, in connection with Madhwapur P.S. Case No.150 of 2020, corresponding to G.R. No.1678 of 2021, registered under sections 272, 273, 341, 342, 323, 353, 188, 379, 504, 506/34 of the IPC, sections 30(a)/45 of Bihar Prohibition and Excise Amendment Act, 2018 and sections 3(i)(x)/3(2)(va) of the SC/ST Act.

The allegation against the appellants is that they tried to rescue the persons apprehended by the police for being involved in liquor business. In due course, they abused and assaulted the informant.

It is submitted by learned counsel for the appellants that no such occurrence in the manner as alleged has ever taken place. Appellants are quite innocent and have been falsely implicated in the case due to village rivalry. There is no specific allegation levelled against the appellants rather the allegations are general and omnibus in nature, as such, no offence under the SC/ST Act is made out against the appellants. No incriminating



article has been recovered from the conscious physical possession of the appellants. The appellants have no concern with the alleged recovered liquor or any trade of liquor. Similarly situated co-accused namely Santosh Ray has been enlarged on bail by this Court vide order dated 18.01.2022 passed in Cr. Appeal (SJ) No.4088 of 2021. The appellants have no criminal antecedent and appellant nos.1 and 2 are in custody since 27.03.2021 and 08.06.2021 respectively.

Learned Spl. PP for the State opposed the prayer for bail.

Considering the facts and circumstances of this case, since similarly situated co-accused has been granted bail, the above named appellants are directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) each with two sureties of like amount each to the satisfaction of the learned Additional Sessions Judge-2nd -cum- Special Judge, Excise Act, Madhubani, in connection with Madhwapur P.S. Case No.150 of 2020, corresponding to G.R. No.1678 of 2021.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Anjani Kumar Sharan, J)

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