

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2697 of 2022

Arising Out of PS. Case No.-300 Year-2022 Thana- FATEHPUR District- Gaya

-
-
1. MUKESH YADAV SON OF LALKESAWAR YADAV R/O VILLAGE-BHALUANI, P.S.- FATEHPUR, DIST.- GAYA
 2. VIRENDRA YADAV SONOF LALKESAWAR YADAV R/O VILLAGE-BHALUANI, P.S.- FATEHPUR, DIST.- GAYA

... .. Appellant/s

Versus

1. The State of Bihar
2. SANTOSH RAVIDAS SON OF LATE MUNNI RAVIDAS R/O VILLAGE-BHALUANI, P.S.- FATEHPUR, DIST.- GAYA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajesh Kumar Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 14-12-2022 Heard learned counsel for the appellants and learned
Spl. P.P. for the State.

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 13.07.2022 in A.B.P. No. 159 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Exclusive Special Judge S.C./S.T. (POA) Act, Gaya in connection with Fatehpur P.S. Case No. 300 of 2022 registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code as well as Sections 3(2)(v) of the SC/ST Act.



Learned counsel for the appellants submits that appellants are persons with clean antecedent and the informant alleges that Poonam Devi has illicit relationship with Sibbu, who had come to her house at 09:00 PM, thereafter her family members called the villagers, on which Sibbu tried to flee but could not, hence he also called the accused persons including the appellants and thereafter it is alleged that Umesh Yadav, Pramod, Kamta and Sibbu Yadav assaulted the son of the informant who was also present at the place of occurrence, it is next alleged that on account of assault, the son of the informant died.

Learned counsel for the appellants submits that the appellants have been falsely implicated in the present case, it is next submitted that from bare perusal of the allegations as alleged in the F.I.R, it would manifest that no doubt the appellants are named in the F.I.R but then no overt act has been alleged against them. It is also submitted that appellants were unaware that as to why Sibbu had called and on his call though they went but when they saw the occurrence they did not participate nor it is alleged in the F.I.R. that they participated in any manner except for their presence at the place of occurrence.

Learned Spl. P.P. for the State opposes the prayer for



anticipatory bail of the appellants and submits that appellants were also part of the unlawful assembly and as such it cannot be presumed that the appellants never had any intention of committing the occurrence though they might not have participated in the occurrence.

Learned counsel for the appellants rebuts the submission of the learned Spl. P.P. and submits that admittedly appellants are persons with clean antecedent and there is no specific allegation against them and they will not evade the law rather will cooperate in the investigation and will appear as and when called by the Investigating Officer of the case so that the truth comes out.

In view of the submissions made by the learned counsel for the appellants, the order dated 13.07.2022 in A.B.P. No. 159 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Exclusive Special Judge S.C./S.T. (POA) Act, Gaya in connection with Fatehpur P.S. Case No. 300 of 2022 is hereby set aside and the appellants above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of



the learned court below where the case is pending/successor court in connection with Fatehpur P.S. Case No. 300 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Further, in the event, if the Investigating Officer of the case files an application before the learned Trial Court bringing to its notice that the appellants despite giving assurance to this Court are not cooperating in the investigation or are not appearing when called by him, the learned Trial Court after giving an opportunity of hearing to the appellants shall pass orders in accordance with law and shall also be entitled to cancel the bail bonds of the appellants.

Further, in the event, if the charge sheet is filed against the appellants connecting them with the offence, then also the learned Trial Court shall have liberty to pass orders in accordance with law.

Learned Trial Court is directed to send a copy of this Order to the concerned P.S.

Accordingly, the appeal stands allowed.

(Satyavrat Verma, J)

Rishabh/-

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

