

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3417 of 2022

Arising Out of PS. Case No.-50 Year-2020 Thana- AMBA District- Aurangabad

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1. SANJAY YADAV S/o Mathura Yadav R/o village- Bharat, P.S.- Amba, District- Aurangabad
 2. Chandan Yadav @ Chandan Kumar S/o Nandu Yadav R/o village- Bharat, P.S.- Amba, District- Aurangabad
 3. Dhananjay Yadav S/o Rameshwar Yadav R/o village- Bharat, P.S.- Amba, District- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Naresh Paswan S/o Late Padarath Paswan R/o village- Kasouti, P.S.- Amba, District- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pramendra Kumar Singh
For the Respondent/s	:	Mr. Sadanand Paswan
For the Informant	:	Ms. Mukul Kumari

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 21-12-2022 Heard Ld. counsel for the appellants and Ld.
Special Public Prosecutor for the State.

This criminal appeal has been filed to enlarge the appellants on bail, impugning the order dated 26.08.2022, passed by the Ld. 1st Additional District and Sessions Judge, Aurangabad, arising out of B.P. No. 877 of 2022 in connection with Amba P.S. Case No. 50 of 2020, whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is



that the informant after death of his wife, took her body to cremation ground in his village near a temple, upon which the appellants along with the other accused persons with various arms came there and protested the cremation on that place. They also started abusing them by taking their caste name, assaulted and also fired with a pistol, due to which 12 persons got injured.

The learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in this case. He refers to the injury report as per which there is no gun shot injury caused to any of the alleged victim. He further submits that the fact is that the altercation took place between the two parties because the place where the informant side were cremating the dead body of the deceased, was not a cremation ground and the same was protested by accused side which resulted into the altercation but there was no occurrence as alleged. He further submits that other co-accused persons have already been enlarged on bail vide order dated 10.03.2022 passed in Cr. Appeal (SJ) No. 493 of 2021.



The appellants have been languishing in jail since 02.08.2022.

It is also stated in paragraph no. 2 of the petition that the appellants have earlier moved before this Court for grant of anticipatory bail vide Cr. Appeal No. 1458 of 2021 which was rejected.

It has further been stated in paragraph no. 3 that the appellants have no criminal antecedent.

However, the Ld. Special Public Prosecutor for the State and Ld. Counsel for the informant vehemently opposes the prayer of the appellants for bail.

Considering the aforesaid facts and circumstances, the appeal is allowed, setting aside the impugned order dated 26.08.2022, passed by the Ld. 1st Additional District and Sessions Judge, Aurangabad and directing the appellants to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Ld. 1st Additional District and Sessions Judge, Aurangabad in arising out of B.P. No. 877 of 2022 in connection with Amba P.S.



Case No. 50 of 2020, on the following conditions:

(i) The appellants will make themselves available for interrogation by a police officer/court as and when required.

(ii) The appellants will undertake that investigation/trial will not hamper on account of their absence or non-cooperation. They must be available to the police or the court whenever their presence is required.

(iii) The appellants shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the appellants have any criminal antecedent, the learned court below shall cancel the bail bond of the appellant after hearing him and getting satisfied that the appellants have concealed his criminal antecedent despite their knowledge of the same.

(v) In case, it is brought to the notice of the court



below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the appellant.

The appeal stands allowed accordingly.

The learned counsel for the appellants is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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