

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2137 of 2023

Arising Out of PS. Case No.-38 Year-2020 Thana- SC/ST District- Gaya

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1. CHINTU KUMAR SON OF SURAJDEO YADAV@SURYADEO PRASAD, Resident of Village- Manpur, P.S.- Fatehpur, District- Gaya
 2. DEEPAK KUMAR @ DEEPAK KR SURAJDEO YADAV, VILLAGE MANPUR, PS FATEHPUR ,DISTRICT GAYA
 3. ARVIND YADAV@ ARBIND YADAV SON OF BHIKHAN YADAV@BHIKHARI YADAV, Resident of Village- Manpur, P.S.- Fatehpur, District- Gaya
 4. BHIKHAN YADAV @ BHIKHARI YADAV SON OF MANGAR YADAV, Resident of Village- Manpur, P.S.- Fatehpur, District- Gaya
 5. SANTU KUMAR @ SANTU YADAV@ SANTU KUMAR SON OF KISHAN YADAV, Resident of Village- Manpur, P.S.- Fatehpur, District- Gaya
 6. MANU KUMAR SON OF KISHAN YADAV, Resident of Village- Manpur, P.S. - Fatehpur, District- Gaya. Appellant/s

Versus

1. THE STATE OF BIHAR
2. KOSHMI DEVI W/O LATE PRAMOD PASWAN, Resident of village- Manpur, P.S.- Fatehpur, District- Gaya. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 2161 of 2023

Arising Out of PS. Case No.-38 Year-2020 Thana- SC/ST District- Gaya

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1. SUKHADEO PRASAD @ SUKHADEO YADAV SON OF SURESAR YADAV, Resident of Village-Manpur, PS- Fatehpur, Dist-Gaya
 2. YOGENDRA KUMAR @ YOGENDRA YADAV SON OF SURESAR YADAV, Resident of Village-Manpur, PS- Fatehpur, Dist-Gaya
 3. SANJAY YADAV @ SANJAY PRASAD SON OF PRASAD YADAV, Resident of Village-Manpur, PS- Fatehpur, Dist-Gaya
 4. PRADEEP YADAV SON OF RAMKHELAWAN YADAV, Resident of Village-Manpur, PS- Fatehpur, Dist-Gaya
 5. SUJEET YADAV SON OF RAMKHELAWAN YADAV, Resident of Village-Manpur, PS- Fatehpur, Dist-Gaya
 6. GORELAL YADAV @ NAGESHAR YADAV SON OF YAMUNA YADAV, Resident of Village-Manpur, PS- Fatehpur, Dist-Gaya
 7. SURESAR YADAV @ SIDESWAR YADAV SON OF LATE SANICHAR YADAV, Resident of Village-Manpur, PS- Fatehpur, Dist-Gaya. Appellant/s

Versus

1. The State of Bihar
2. Koshmi Devi Wife of Late Pramod Paswan, Resident of Village-Manpur, PS-Fatehpur, Dist-Gaya (informant).



... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 2137 of 2023)

For the Appellant/s : Mr. Durgesh Nandan, Adv.
Mr. Manisha Prakash, Adv.
For the State : Mr. Sadanand Paswan, Spl,PP
For the informant : Mr. Brij Mohan Das, Adv.

(In CRIMINAL MISCELLANEOUS No. 2161 of 2023)

For the Petitioner/s : Mr. Durgesh Nandan, Adv.
Mr. Manisha Prakash, Adv.
For the State : Mrs. Usha Kumari 1, Spl. PP
For the informant : Mr. Brij Mohan Das, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 06-10-2023 Heard Mr. Durgesh Nandan, learned counsel for the appellants and Mr. Brij Mohan Das, learned counsel for the informant as well as Mrs. Usha Kumari 1 and Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. This appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been directed against the order dated 23.03.2023, passed by learned Exclusive Special Judge SC/ST, Gaya in connection with SC/ST P.S. Case No. 38 of 2020, registered under Sections 147, 148, 149, 341, 323, 384, 379, 354, 427, 504, 506 of the Indian Penal Code and Section 3(i)(r) (s)(w)(i)/3(2)(v-a) of SC/ST (POA) Act, whereby the prayer for pre-arrest bail of the appellants has been rejected.

3. As per allegation, the accused persons, including the appellants armed with lethal weapons came at the shop of



the informant and damaged her shop. When she objected, they misbehaved, looted her articles, abused her by calling her caste name and they also threatened and demanded Rs. 50,000/- as ransom for running shop.

4. Learned counsel for the appellants submits that the appellants have clean antecedents. They have falsely been implicated in the present case. He further submits that from perusal of the FIR, it appears that the date of occurrence, as alleged in the FIR, is 13.08.2020, but the present FIR has been instituted on 28.09.2020 after delay of 45 days only to falsely implicate or harass the appellants in the present case. He next submits that from perusal of the FIR, it appears that there is no specific allegation of any assault or overt act attributed against the appellants, rather there is general and omnibus allegation against all the accused persons, including the appellants. It also appears from the FIR that no case is made out under the Scheduled Castes and Scheduled Tribes Act against the appellants. Hence, the appellants may be granted the privilege of pre-arrest bail.

5. On the other hand, learned counsel for the respondent no. 2 and learned Special Public Prosecutor have vehemently opposed the prayer for bail and submit that from



perusal of FIR, it appears that there is allegation against these appellants that they have common intention to have committed crime in question.

6. Considering the facts and circumstances of the case, let the above-named appellants, in the event of their arrest or surrender within a period of four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge SC/ST, Gaya in connection with SC/ST P.S. Case No. 38 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C and with further following conditions;

(i) Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

(ii) If the appellants tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of their bail.

And, further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage, it is found that the appellants have concealed their criminal antecedents, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order



shall not be delayed for purpose of or in the name of verification.

7. Accordingly, these appeals are allowed and the impugned order is set aside.

(Rajesh Kumar Verma, J)

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