

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.2530 of 2022

Arising Out of PS. Case No.-132 Year-2021 Thana- ISMAILPUR District- Bhagalpur

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1. MD. MAZAHAR @ MD. AJHAR S/O LATE NASIR Resident of Lakshmipur Muslim Tola, Ismilepur, District- Bhagalpur
 2. MD. SAFID S/O MD. MAZAHAR Resident of Lakshmipur Muslim Tola, Ismilepur, District- Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Kamleshwari Harijan son of Baldev Harijan R/o village- Lakshmipur, P.S.- Ismilepur, District- Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Md. Musowir
For the Respondent/s : Mr. Sadanand Paswan
For the Respondent No-2 : Mr. Dhirendra Singh

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

3 04-01-2023 Heard Ld. counsel for the appellants, Ld. Special Public Prosecutor for the State and Ld. Counsel for the Informant/Respondent No-2.

This criminal appeal has been filed to enlarge the appellants on bail, impugning the order dated 02.03.2022, passed by Ld. Additional Sessions Judge-III-Cum- Special



Judge, SC/ST Act, Bhagalpur, arising out of Ismailepur P.S. Case No. 132 of 2021 registered for the offence punishable under Sections 147, 148, 341, 323, 504, 506, 354(B) and 379 of the Indian Penal Code and Sections 3(i) (g)/ 3(1) (S)/ 3 (2) (Va) of the SC/ST Act, whereby bail has been denied to the appellants.

The prosecution case as emerging from the FIR is that the appellants and his associates had assaulted the informant by lathi and danda and also abused him by taking his caste name.

The learned counsel for the appellants submits that the appellants are innocent and has falsely been implicated in this case. He further submits that there is case and counter case in regard to the alleged occurrence. He further submits that investigation in this case is complete and charge-sheet has already been submitted. He also submits that the appellants will co-operate in the trial and the trial will not get hampered in case they are enlarged on bail.

He further submits that the appellants have been languishing in jail since 08.01.2022.



It has also been stated in paragraph no. 3 of the appeal that the appellants have no criminal antecedents.

It is also stated in paragraph no. 2 of the appeal that the appellants have not moved this Court earlier either for anticipatory bail or regular one.

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 02.03.2022, passed by the Ld. Additional Sessions Judge-III-Cum- Special Judge, SC/ST Act, Bhagalpur, and directing the appellants to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Ld. Additional Sessions Judge-III-Cum-Special Judge, SC/ST Act, Bhagalpur in connection with Ismailepur P.S. Case No. 132 of 2021 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 antecedents, the Ld. court below shall cancel the bail bonds of the appellants after hearing them and getting satisfied that the appellants have concealed their criminal antecedents 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 Ld. court below shall cancel the bail bonds of the



appellants.

The Ld. counsel for the appellants is/are 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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