

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4640 of 2023**

Arising Out of PS. Case No.-169 Year-2016 Thana- GURUA District- Gaya

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1. Anil Singh, Son of Madhu Singh
 2. Ankit Kumar Son of Anil Singh
 3. Prince Singh @ Golu @ Prince Kumar Son of Anil Singh
 4. Ranjit Singh @ Ranjit Kumar Singh Son of Ban Kumar Singh
 5. Nirbhay Kumar Singh, Son of Ban Kumar Singh
- All are resident of Village- Kanaudi, P.S.- Gurua, Dist.- Gaya

... .. Appellants

Versus

1. The State of Bihar
2. Arbind Paswan, Son of Shiya Paswan, R/o Village-Mishir Bigha, P.S.- Gurua, Dist.- Gaya

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Alok Kumar Choudhary, Advocate Ms. Priyanka Kumari, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT**

Date : 21-12-2023

Heard learned counsel appearing on behalf of the appellants.

2. Learned Special Public Prosecutor appearing on behalf of the State submitted that informant was already informed regarding present proceedings in terms of order dated 13.12.2023. Despite of aforesaid information, the respondent No.2/informant has failed to join the present proceeding.

3. The present appeal has been preferred by the appellants against the order dated 07.08.2023 passed by the



learned Special Judge, SC/ST, Gaya in Trial Case No.418 of 2018 whereby the trial court has rejected the application filed under Section 317 of the Code of Criminal Procedure (for short 'CrPC') where bail bonds of all the appellants-accused persons were cancelled by learned trial court as they were failed to appear together when the matter was fixed for framing of charge.

4. It appears from the impugned order that intentionally an application under Section 317 of the CrPC was moved by the appellant/accused before the learned trial court as to defer the date, where intention *prima facie* appears to delay in trial.

5. In the aforesaid background, the application as placed under Section 317 of the CrPC when the matter was fixed for framing of charge was dismissed by learned Trial Court.

6. It is submitted by learned counsel appearing on behalf of the appellants that from a perusal of impugned order, the impression what can be gathered on face is that in case of non-appearance on the next date of hearing, bail bonds of accused-appellant would be cancelled. In support his submission, he quoted the line of impugned order dated



07.08.2023, which runs as “इसलिए पॉचों अभियुक्तों का बन्धन पत्र खंडित कर दिया जाएगा”।

7. Learned Special Public Prosecutor while opposing the prayer submitted that the intention of appellants-accused be gathered easily as to delay in trial.

8. In view of the aforesaid facts and circumstances, as appellants-accused were on bail during trial, where the language of impugned order dated 07.08.2023 also suggest *prima facie* a warning for future non-appearance, accordingly, the order dated 07.08.2023 passed by the learned Special Judge, SC/ST, Gaya in Trial No.418 of 2018 is set aside, by allowing the appeal.

9. All aforesaid appellants-accused are directed to remain present physically on next date of hearing for framing of charge, failing which, the court may take appropriate steps in accordance with law.

10. Accordingly, the present appeal stands disposed of.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.12.2023
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