

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4339 of 2022

Arising Out of PS. Case No.-138 Year-2018 Thana- AGIAON District- Bhojpur

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1. Babuni Dom Son of Late Murari Dom R/v- Karath, P.S.- Tarani, District- Bhojpur
 2. telhu dom Son of Murari Dom R/v- Karath, P.S.- Tarani, District- Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Ajay Kumar Son of Late Lalan Ram R/v- Agion, P.S.- Agion (G), District- Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dharmendra Kumar Singh, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 07-07-2023 Heard learned counsel for the appellants as well as
learned Spl.P.P. for the State.

Vide order dated 21.03.2023 a notice was issued to the Respondent No. 2. The notice was received by the wife of the Respondent No. 2. The counsel for the appellants has filed supplementary affidavit stating therein that the both the Respondent No. 2 and his wife were living together in the same house so he presume that the Respondent No. 2 has full knowledge of the present case and it deemed to be validly served.

This is an appeal under Sections 14(A)(2) against refusal of the prayer for regular bail by order dated 04.11.2022 passed by the learned 1st Additional Sessions Judge cum



Special Judge, SC/ST Bhojpur, Ara passed in B.P. No. 5627 of 2022 arising out of Agion (Garahani) P.S. Case No. 138 of 2018, F.I.R. dated 16.12.2018 registered under Sections 302/34 of the Indian Penal Code.

According to the prosecution case, all the accused persons including these appellants have attacked on the informant and his family members due to which father of the informant sustained injuries resulting into his death.

Learned counsel for the appellants submits that appellants have falsely been implicated in the present case. He further submits that it appears from the F.I.R. that there is general and omnibus allegation against all the accused persons including these appellants and due to land dispute the present occurrence has taken place. He further submits that the appellants are brother-in-law of the co-accused person, namely, Halchal Dom therefore, the appellants and their family members were also implicated in this case. He further submits that the co-accused, namely, Mahendra Dom has been granted bail by the Co-ordinate Bench of this Court vide order dated 27.04.2019 passed in Cr. Misc No. 45662 of 2019, co-accused, namely, Sunil Dom has been granted bail by the Co-ordinate Bench of this Court vide order dated 19.03.2020 passed in Cr. Misc. No.



77946 of 2019, co-accused, namely, Sunny Kumar has been granted bail by the Co-ordinate Bench of this Court vide order dated 17.08.2021 passed in Cr. App. (SJ) No. 3296 of 2021 and co-accused, namely, Halchal Dom has been granted bail by the Co-ordinate Bench of this Court vide order dated 24.09.2021 passed in Cr. App. (SJ) No. 77946 of 2019. He further submits that the police, after investigation, submitted charge sheet against the appellants. The appellants are in custody since 29.08.2022.

Learned Special Public Prosecutor for the State has vehemently opposed the prayer for bail of the appellants and submits that the appellants carries two criminal antecedents other than the present one.

Considering the facts and circumstances of the case, let the appellants, above named, 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 learned st Additional Sessions Judge cum Special Judge, SC/ST Bhojpur, Ara passed in B.P. No. 5627 of 2022 arising out of Agion (Garahani) P.S. Case No. 138 of 2018, with other following conditions:-

1. 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.

2. If the appellants tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. 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 antecedent, 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.

Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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