

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5386 of 2024

Arising Out of PS. Case No.-79 Year-2017 Thana- PAKARIBARAW District- Nawada

1. Manoj Kumar @ Manoj Yadav S/O Darbari Yadav R/O Vill.- Tirwan, P.S.- Pakaribarawan, Dist.- Nawada. Present R/at Boring Camp, near Vidya Sagar School, Post- Ghatotand, P.S.- Mando, Dist.- Ramgarh, Jharkhand
2. Phantus Yadav @ Jitendra Yadav S/O Krishna Yadav R/O Vill.- Tirwan, P.S.- Pakaribarawan, Dist.- Nawada. Present R/at Near Check Post, Jealgora No. 7, Majhiladi @ Jagidi, P.S.- Jelagora, Dist.- Dhanbad, Jharkhand

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Satish Pandey, Adv.
For the Respondent/s	:	Mr. Sadanand Paswan, SPP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 06-03-2025 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State. No one appears on behalf of the respondent no.2.

2. From the office-notes, it appears that the notice through ordinary process has been received by the son of the respondent no.2. Accordingly, let the notice issued to the respondent no.2 be deemed to be valid service of notice.

3. Perused the case diary.

4. The instant appeal has been filed by the appellants against the order dated 15.05.2017 passed by Exclusive Special Judge, Special Court (SC/ST), Nawada whereby the prayer for



bail of the appellants in connection with Pakaribravan P.S. Case No. 79 of 2017 under Sections 147, 148, 149, 341, 323, 324, 325, 307, 302 of the I.P.C. and Sections 3(2)(v) of the SC/ST Act, was rejected.

5. As per prosecution case, the appellants and other 18 bitterly assaulted one Dinesh, as a result whereof, Dinesh died subsequently..

6. Learned counsel for the appellants submits that the appellants are innocent and they have been falsely implicated in the present case with false and frivolous allegations. The present case is a misuse of privilege of bail. Learned counsel for the appellants submits that the appellants have earlier moved before this Court for grant of regular bail which was allowed vide order dated 02.01.2018 passed in Cr. Appeal (SJ) No. 3367 of 2017. Learned counsel for the appellants further submits that on 06.11.2023, the case was fixed for framing of charge but, both the appellants could not appear before the learned court below because the petition for representation was given by the Pairvikar of both the appellants and the same was rejected by the learned court below and warrant was issued. He further submits that as and when the appellants got information, they surrendered/appeared on 20.09.2024 voluntarily before the



learned court below through surrender cum bail petition but, the same was rejected on 20.09.2024 and, since then, they are in jail. Learned counsel for the appellants further submits that the appellants undertake to abide by any conditions imposed by this Court, if released on bail.

7. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the appellants.

8. Having heard learned counsel for the parties and taking to into account the period of custody undergone by the appellants, the appellants having no criminal antecedent as also considering the undertaking given by the appellants, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 15.05.2017 passed by Exclusive Special Judge, Special Court (SC/ST), Nawada is hereby set aside.

9. Let the appellants, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Pakaribravan P.S. Case No. 79 of 2017, subject to following conditions;

(i) One of the bailor(s) shall be the own/close family



members of the appellants.

(ii) The appellants shall cooperate 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 in the event of failure on two consecutive dates without sufficient reasons, their bail bond shall be liable to be cancelled by the court below.

10. The interlocutory application, if any, also stands disposed of.

(Rudra Prakash Mishra, J)

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