

(2019) 12 JH CK 0054

In the Jharkhand High Court

Case No : Criminal Appeal (S.J.) No.942 of 2019

Bhuneshwar Yadav And Ors

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 03-12-2019

Acts Referred:

Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 — Section 3(r), 3(x)

Indian Penal Code, 1860 — Section 34, 307, 323, 324, 325, 327, 341, 427, 504, 506

Citation : (2019) 12 JH CK 0054

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Final Decision : Allowed

Judgement

1. Heard Mr. Yogesh Modi, learned counsel appearing on behalf of the appellants.

2. This appeal has been filed for the following relief:

"The instant criminal appeal is being preferred against the order dated 22.8.19 in CNR No.JH GR 010033652019 corresponding to MCA No.652/19 passed by Special Judge, SC/ST Act, Giridih, in Sariya PS Case No.62/18, u/s 341, 323, 324, 307, 327, 504, 506/34 IPC, & u/s 3(x) of SC & ST (Prevention of Atrocities) Act, 1989, cognizance taken u/s 341, 323, 325, 427, 504, 506/34/307 IPC, & u/s 3(r) of SC & ST (Prevention of Atrocities) Act, 1989 whereby and whereunder the prayer of the appellants for regular bail has been rejected, pending in the court of Special Judge, SC / ST Act, Giridih."

3. Learned counsel for the appellants submits that there is a delay of filing the F.I.R by 6 days as the date of incident is 15.05.2018 and the F.I.R was lodged on 21.05.2018. He further submits that the appellants have remained in custody from 21.05.2019 till 25.10.2019 whereby the appellants were directed to be released on provisional bail. The learned counsel for the appellants submits that so far as the allegation made in the F.I.R is concerned, it has come in the case

diary at para no.110 that the property which relates to the place of occurrence belongs to the father of the appellants as per the records of the Anchal office. He submits that the appellants have been falsely implicated in this case and the learned court below while rejecting the bail application of the appellants have not considered this aspect of the matter properly. He further submits that in order to buy peace, the appellants are ready to give some amount by way of victim compensation subject to the final result of the case.

4. Counsel for the opposite party no.2 while opposing the prayer has referred to para 30 of the case diary to submit that the place of occurrence is in front of the community hall and there is a school as well as a temple in the vicinity of the place of occurrence. During the course of argument, when he was confronted with the statements made by the appellants in para 9 and 11, he submits that no specific reply to para 9 and 11 of the main petition as such has been given, but he is harping upon the evidence which has been collected and recorded in para 30 of the case diary.

5. After hearing the counsel for the parties and considering the facts and circumstances of this case and particularly the investigation made and para 110 of the case diary, this Court finds that the aforesaid aspect of the matter as argued by the learned counsel for the appellant has not been properly considered by the learned court below while passing the impugned order and accordingly, the impugned order dated 22.08.2019 is hereby set aside and the provisional bail granted to the appellants vide order dated 25.10.2019 is hereby confirmed, subject to the following further condition:

An amount of Rs.25,000/- is to be deposited by the appellants before the learned court below within a period of two weeks from today. It is made clear that the deposit of this amount will not prejudice the case of the appellant in any manner. The said amount be released in favour of the opposite party no.2 after due identification, by way of victim compensation and the same will be subject to the final result of the case before the learned court below.

6. Accordingly, the appeal is hereby allowed.

7. Let this order be communicated to the learned court below through FAX.