

(2021) 03 PAT CK 0165

In the Patna High Court

Case No : Criminal Appeal (Sj) No. 464 Of 2021

Md. Nakir @ Md. Nakir Ansari And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 18-03-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r)(s), 14A(2)

Indian Penal Code, 1860 — Section 34, 323, 325, 341, 354, 448, 504, 506

Citation : (2021) 03 PAT CK 0165

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Bhola Prasad, Tarun Prasad Mandal, Usha Kumari

Final Decision : Allowed

Judgement

1. Heard learned counsel for appellants and learned Spl. PP for the State.
2. Learned counsel for the appellants is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so.
3. The appellants have preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for regular bail vide order dated 21.10.2020 passed by learned Additional District and Sessions Judge-III-cum-Special Judge (SC/ST Act), Bhagalpur in Pirpanti PS Case No. 174 of 2020, registered under Sections 341, 323, 325, 448, 354, 504 and 506/34 of the Indian Penal Code, Sections 3(1)(r)(s) of the SC/ST Act.
4. It is alleged that the appellant No 1 has abused the informant by caste name as some she goats of her mother-in-law strayed towards his door. The further allegation is that appellant Nos 2 and 3 have also assaulted the informant by sticks and rods. The husband of the informant as well as 'Nandoshi', viz, Umesh

Mandal have also been assaulted. The informant's husband has allegedly suffered a fracture. Referring to the injury report of the two persons vide Annexure- 3 series, it is submitted that there is no injury on any vital part of the body. In the course of investigation, material has come to suggest that there was scuffle between the parties over the trivial dispute as some she goats of the informant's mother-in-law strayed towards the door of appellant No.1, as a result of the scuffle between the parties, the wife of appellant No.1 has also lodged a counter case, namely, Pirpanti PS case No. 175 of 2020 on the same day. There is no specific allegation against the appellants individually and their implication is based on general and omnibus allegation of assault. The appellant No.2 has already been acquitted in Pirpanti PS Case No. 96 of 2014, whereas appellant Nos. 1 and 3 are on bail in the said case and in Pirpanti PS Case No. 249 of 2018, the police have submitted final form finding the case not to be true and the same is pending consideration before the concerned Court. The appellants are languishing in custody since 15.09.2020.

5. The learned Spl. PP has opposed the prayer for bail by submitting that the specific assault alleged against the appellants is corroborated by the injury report, as per case diary.

6. Considering the rival submissions, this appeal is allowed. The impugned order dated 21.10.2020 passed by learned Additional District and Sessions Judge-III-cum-Special Judge (SC/ST Act), Bhagalpur, in Pirpanti PS Case No. 174 of 2020, is set aside. Let the appellants, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-III-cum-Special Judge (SC/ST Act), Bhagalpur, in Pirpanti PS Case No. 174 of 2020, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellants who will give an affidavit giving genealogy as to how he is related with the appellants. The bailor will also undertake to inform the Court if there is any change in the address of the appellants.

(ii) That the appellants will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.