
(2019) 10 JH CK 0047

In the Jharkhand High Court

Case No : Criminal Appeal (S.J.) No. 663 Of 2019, I.A. No. 6382 Of 2019

Nema Mahto And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 16-10-2019

Acts Referred:

Indian Penal Code, 1860 — Section 147, 148, 149, 323, 341, 354, 379, 427
Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(x), 3(xi)

Citation : (2019) 10 JH CK 0047

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Vijay Kumar Roy, P.D. Agarwal, Rashmi Kumari

Final Decision : Disposed Of

Judgement

1. Heard counsel for the parties.
2. This appeal has been filed against the order dated 03.06.2019 passed by the learned Special Judge, SC/ST Act, Giridih in connection with M.C.A. No. 621 of 2019 (arising out of Birni P.S. Case No. 79/2018 corresponding to G.R. No. 1686 of 2018) registered on 11.06.2018 for offence under sections 147/148/149/341/323/354(B)/379/427 of the Indian Penal Code and under Section 3(x) (xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in which the appellants preferred this appeal for granting regular bail before this Hon'ble Court, now the case is pending in the court of learned Special Judge, SC/ST Act, Giridih.
3. Counsel for the parties submit that their respective clients are present in this case. Counsels further submit that joint compromise petition has been filed in this case being I.A. No. 6382 of 2019 and submit that the provisional bail granted to the appellants may be confirmed. Counsel for the appellants submitted that appellants have surrendered before the learned court below on 01.06.2019 and since then they were in custody. Vide order dated 24.07.2019

passed by this court, the appellants have been released on provisional bail which is valid till 05.11.2019. Counsel for the appellants submits that considering the facts and circumstances of this case and also considering the fact that the co-accused Lalu Yadav and Karu Yadav @ Deo Nandan Yadav have been enlarged on regular bail by this court vide order date 26.11.2018 in Cr. Appeal (SJ) No. 1396 of 2018, the provisional bail granted to the appellants vide order dated 24.07.2019 may be confirmed. He further submits that the case of the present appellants is similar to the aforesaid co-accused Lalu Yadav and Karu Yadav. He submits that the appellants are ready to give some amount to the opposite party no. 2 by way of victim compensation subject to the final decision of this case.

4. Counsel appearing on behalf of the State submits that he has no objection if the provisional bail granted to the appellants be confirmed as the parties have settled their dispute outside the court and filed a joint compromise petition.

5. Counsel appearing on behalf of the opposite party no. 2 has no objection if the provisional bail granted to the appellants be confirmed but she submits that the opposite party no. 2 being a poor person belonging to Scheduled Caste category, he may be adequately compensated by way of victim compensation.

6. Upon this counsel for the appellants submits that the payment of compensation may not prejudice the case of the appellants before the learned court below.

7. After hearing counsel for the parties and after considering the facts and circumstances of this case and also considering the fact that the co-accused namely Lalu Yadav and Karu Yadav have been enlarged on bail vide order dated 26.11.2018 passed in Cr. Appeal (SJ) No. 1396 of 2018 this court hereby allows the appeal and the impugned order dated 03.06.2019 passed by learned Special Judge, SC/ST Act Giridih is hereby set aside.

The provisional bail granted to the appellants vide order dated 24.07.2019 passed by this court is hereby confirmed on the following further conditions:-

(i) The appellants will deposit Rs. 5,000/- each prior to 05.11.2019 before the learned court below and the amount is to be remitted to the opposite party no. 2 by the learned court below after proper identification.

(ii) The appellants will not annoy or disturb the opposite party no. 2 or his family members in any manner during the pendency of this case.

8. It is made clear that the aforesaid amount by way of victim compensation to the opposite party no. 2 will not prejudice the case of either parties before the learned court below.

9. I.A. No. 6382 of 2019 is hereby disposed of.

10. Let this order be communicated to the court concerned through FAX.