

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 3474 of 2021**

Arising Out of PS. Case No.-75 Year-2017 Thana- KUSHESHWARASTHAN District-
Darbhanga

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1. RAM DAYAL BHARTI S/o JOGINDAR SAH @ YOGENDRA SAH R/o VILLAGE-BARKI KAUNIYA, P.S-KUSHESHWAR ASTHAN, DISTRICT-DARBHANGA.
 2. SANJAY MUKHIYA S/o LALAN MUKHIYA R/o VILLAGE-BARKI KAUNIYA, P.S-KUSHESHWAR ASTHAN, DISTRICT-DARBHANGA.
 3. BATUKESHWAR MUKHIYA S/o RAM MUKHIYA R/o VILLAGE-BARKI KAUNIYA, P.S-KUSHESHWAR ASTHAN, DISTRICT-DARBHANGA.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr Sujit Kumar Singh, Advocate

For the Respondent/s : Mr Sadanand Paswan, Special PP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 04-10-2021

Heard learned counsel for the appellants as well as the learned Special Public Prosecutor (for brevity, *Special PP*) appearing for the State of Bihar.

2 The appellants have preferred the present Appeal under Section 14A (2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (for brevity, *SC/ST Act*) against the refusal of their prayer for regular bail vide order dated 05.06.2021 passed by Additional Sessions Judge I -cum- Special Judge,



Darbhanga in a case registered under Sections 147, 148, 149, 341, 342, 354, 307, 504, 506 of Indian Penal Code and Sections 3 (i) (r) (s) of SC/ST Act in connection with Kusheshwar Asthan (Tilkeshwar OP) Police Station (for brevity, *PS*) Case No 75 of 2017 dated 22.04.2017 corresponding to SC/ST GR No 44 of 2017.

3 The informant has alleged that eight accused persons, including these appellants, surrounded her house, hurled caste based abuses and have, thereafter, confined the informant and her family members.

4 Learned counsel for the appellants submits that specific allegation has been made against co-accused Rakesh Mukhiya and Mukesh Mukhiya. The Court of learned Additional Sessions Judge I -cum- Special Judge has granted bail to the said accused persons under order dated 21.01.2021. Since the appellants had surrendered after non-bailable warrant was issued, the Court considered it appropriate to grant provisional bail to the appellants. On 06.03.2021, provisional bail was granted to Appellants No 1 and 2, and on 15.03.2021, provisional bail was granted to Appellant No 3. Provisional bail was granted to all the three appellants up till 21.03.2021. A day's delay has occurred in surrendering to the Court after lapse of the provisional bail granted



to the appellants. Under such circumstances, they have been taken in custody and are in jail since 22.03.2021. It is further submitted that other similarly situated co-accused are already on bail and even Rakesh Mukhiya and Mukesh Mukhiya, against whom there are specific allegations, are on bail. They are having no criminal antecedents and it is a case of false implication. There is case and counter case arising out of the same transaction which forms the basis of appellants' implication.

5 Learned Special PP has opposed the prayer for bail. He has submitted that the appellants have not honoured the provisional bail granted to them.

6 In my opinion, in view of nature of accusation in the First Information Report, and submission of parties, a case for grant of regular bail is made out. The impugned order dated 05.06.2021 requires interference by this Court, which is, accordingly, set aside.

7 This appeal is allowed. The impugned order dated 05.06.2021 passed by Additional Sessions Judge I -cum- Special Judge, Darbhanga in connection with SC/ST GR No 44 of 2017 arising out of Kusheshwar Asthan (Tilkeshwar OP) PS Case No 75 of 2017 dated 22.04.2017 is set aside.



8 Let the appellants above named be released on bail on each of them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge I -cum- Special Judge, Darbhanga in connection with SC/ST GR No 44 of 2017 arising out of Kusheshwar Asthan (Tilkeshwar OP) PS Case No 75 of 2017 dated 22.04.2017 subject to the following conditions:

(1) 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.

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

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.10.2021
Transmission Date	06.10.2021

