

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3563 of 2021

Arising Out of PS. Case No.-63 Year-2020 Thana- KASMA District- Aurangabad

PRINCE KUMAR Son of Ajay Singh Resident of Village - Jalwaya, P.S. -
Kaler, Dist.- Arwal

... .. Appellant

Versus

1. The State of Bihar
2. Umesh Das Son of Late Surdeo Das Resident of Village - Khairi Itawan,
P.S.- Kasma, Dist.- Aurangabad.

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Sanjay Kumar, Advocate, Advocate Mr. Pramendra Kumar Singh, Advocate
For the Respondent/s	:	Ms. Usha Kumar-1, Special P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 26-10-2021 Heard learned counsel for the appellant and Ms. Usha
Kumari – 1, learned Special P.P. for the State.

The appellant, in the present case, is seeking setting aside of the order dated 07.08.2021 passed by learned 1st Additional District & Sessions Judge, Aurangabad in connection with Kasma P.S. Case No. 63 of 2020 registered for the offence under Sections 341/323/504/506/420 of the Indian Penal Code and Section 3(1)(r)(s)/32(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The appellant is in custody since 15.07.2021.

A supplementary affidavit has been filed stating therein that after lodgment of this case the appellant has been taken on remand in three other cases but in the case diary there



is no criminal antecedent of the petitioner.

The allegation, as disclosed in the First Information Report, is that this appellant has forged himself as a recovery agent and had taken away the tractor of the informant on which the informant had admittedly taken financial assistance from M/s. Tata Motor Company.

Learned counsel submits that the F.I.R. has been lodged on false and flimsy allegations when the informant himself admittedly failed to pay the installments of the vehicle towards the refund of the loan amount. Learned counsel further submits that allegedly the vehicle was taken away on 25.10.2017 by four persons who had visited the house of the informant but no document showing taking away of the vehicle by any recovery agent has been produced by the informant and it is highly unbelievable that the informant would allow any person showing himself as a recovery agent to take away the vehicle from the house of the informant.

Learned counsel further submits that admittedly the informant being a defaulter received a demand notice in March 2019 from the company whereafter this case has been concocted. It is further pointed out that as per F.I.R. the informant met the appellant on 03.06.2019 when the appellant



had abused the informant, but the present F.I.R. has been lodged after more than one year of the alleged occurrence.

Ms. Usha Kumari-1, learned Special P.P. for the State has though opposed the prayer for bail of the appellant but considering the entire materials on the record, the nature of transactions and the huge delay of over one year two months in lodging of the F.I.R. from the alleged date of occurrence when the informant was allegedly abused by this appellant and further that the appellant has already remained in jail for over three months and investigation against him is complete, this court sets-aside the impugned order and directs release of the appellant above-named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 1st Additional District & Sessions Judge, Aurangabad in connection with Kasma P.S. Case No. 63 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail



bonds in terms of the above-mentioned order shall not be
delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

