

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.198 of 2021**

Arising Out of PS. Case No.-109 Year-2020 Thana- CHERIYA BARIYARPUR District-
Begusarai

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RAJEEV MAHTO @ RAJEEV MAHTON @ RAJEEV KUMAR S/o Late
Rameshwar Mahto Resident of Village- Karor, P.S.- Cheriya Bariyarpur,
Distt-Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Hare Krishna Prasad, Advocate
For the informant	:	Mr. Sandip Kumar Gautam, Advocate
For the State	:	Mr. Sadanand Paswan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 15-01-2021 This application has come under the heading “To Be
Mentioned” at the instance of the appellant.

Heard Mr. Hare Krishna, learned counsel for the
appellant, Mr. Sandip Kumar Gautam, learned counsel for the
informant and Mr. Sadanand Paswan learned Additional Public
Prosecutor appearing for the State.

This appeal has been preferred on behalf of the
appellant for setting aside the order dated 23.09.2020 passed by
the learned Special Judge, SC/ST (Prevention of Atrocities) Act,
Begusarai, in connection with Cheriya Bariyarpur P.S. Case No.
109 of 2020 registered for the offences punishable under
Sections 147, 148, 149, 323, 504, 506, 354B, 427, 379 of the



Indian Penal Code, Sections 25(1-b)a, 26, 27 of the Arms Act, and Sections 3 (i) (r) (s), 3 (2)(va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, whereby the prayer for regular bail of the appellant has been rejected.

The allegation as per the First Information Report is that the appellant along with other co-accused persons armed with *lathi*, rod and pistol entered into the house of the informant and abused him by calling his caste name and assaulted him and his family members and also took away a sum of Rs.30,000/- from his pocket. It has further been alleged that Bhushan Paswan outraged the modesty of the daughter-in-law of the informant.

Learned counsel for the appellant submits that the appellant has falsely been implicated in this case due to previous enmity. Learned counsel further submits that no specific allegation has been made against the appellant and the allegation is general and omnibus in nature along with other co-accused persons altogether 13 in numbers. Learned counsel also submits that for the similar incident, two First Information Reports were lodged inasmuch as Cheriya Bariarpur P.S. Case No. 108 of 2020 was lodged by the Police in which the appellant has been granted bail by the learned court below.



Learned counsel next submits that the appellant is in custody since 14.9.2020 and the charge sheet has already been submitted against the appellant.

On the other hand, learned counsel for the informant as well as the State vehemently opposed the prayer for regular bail and submit that the appellant abused the informant and called him by his caste name and also assaulted along with other co-accused persons with intention to commit dacoity in the house of the informant. Learned counsel next submits that earlier the informant had also lodged Cheriya Baribarpur P.S. Case No. 27 of 2018 against the appellant and for commission of offence committed by him and others under Sections 385, 427 and 379 of the Indian Penal Code.

Having heard learned counsel for the parties and taking into consideration the materials on record, the nature of allegation against the appellant which is general and omnibus in nature and the fact that the charge sheet has already been submitted as well as there is no apprehension that the appellant will abscond or tamper with the evidence, this appeal is allowed and the impugned order dated 23.09.2020 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act, Begusarai, in connection with Cheriya Bariyarpur P.S. Case No.



109 of 2020 is hereby set aside.

Accordingly, the appellant, above named shall be released on regular bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (Prevention of Atrocities) Act, Begusarai, in connection with Cheriya Bariyarpur P.S. Case No. 109 of 2020.

It is made clear that at the time of furnishing bails bonds all the parties shall follow the guidelines regarding social distancing.

(Anil Kumar Sinha, J)

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