

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 463 of 2021**

Arising Out of PS. Case No.-188 Year-2020 Thana- KHODAWANDPUR District- Begusarai

1. MD SHEKH NAGEENA @ SHEKH NAGEENA @ NAGEENA @ LAGEENA Son of Md. Late Ibrahim Resident of Village- Sirsi Ward No.08, P.S.- Khodawandpur, Distt- Begusarai.
2. MD SARFARAJ Son of Md. Shekh Nageena @ Shekh Nageena @ Nageena @ Lageena Resident of Village- Sirsi, Ward No.08, P.S.- Khodawandpur, Distt- Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr Sandip Kumar Gautam, Advocate
For the Respondent/s	:	Mr Sadanand Paswan, Special PP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 25-03-2021

Heard learned counsel for the appellants and the learned Special PP for the State.

2 The appellants have preferred the present Appeal under Section 14 A (2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for brevity, *SC/ST Act*) against the refusal of their prayer for regular bail vide order dated 09.10.2020 passed by Special Judge, SC/ST Act, Begusarai in a case registered under Sections 147, 149, 323, 307, 354B, 379, 504, 506, 324, 325 of Indian Penal Code and Sections 3 (i) (r) (s) (w), 3 (2) (va) of SC/ST Act in connection with



Khodawandpur Police Station (for brevity, *PS*) Case No 188 of 2020 dated 15.09.2020.

3 Total 11 persons have allegedly assaulted members of the prosecution party. Against appellant No 1, allegation is of assault on Anita Devi's head by iron rod. Appellant No 2 has allegedly stabbed Mukesh Kumar.

4 Appellants' counsel submits that it is a case of false implication. There is case and counter case. Counter case is placed on record as Annexure 2 being Khodawandpur PS Case No 189 of 2020. Three months prior to the occurrence, informatory petition was also filed raising an apprehension of false implication. It is submitted that the case stands belied from the injury report wherein one of the victims Mukesh, who is alleged to have been stabbed, has been found with simple injuries, caused due to man handling only.

5 Learned Special PP for the State has opposed the prayer for bail. He has submitted that at least in respect of appellant No 1 Md Shekh Nageena @ Shekh Nageena @ Nageena @ Lageena, the assault by iron rod on head stands corroborated by injury No (1) which is grievous in nature apart from other injury, sustained by the victim Anita Devi.



6 In my opinion, a case for grant of regular bail is made out in respect of appellant No 2 Md Sarfaraj. The impugned order dated 09.10.2020 requires interference by this Court, in so far as appellant No 2 Md Sarfaraj is concerned, which is, accordingly, set aside.

7 Considering the rival submissions, this appeal is allowed, in so far as appellant No 2 Md Sarfaraj is concerned. The impugned order dated 09.10.2020 passed by Special Judge, SC/ST Act, Begusarai in connection with Khodawandpur PS Case No 188 of 2020 dated 15.09.2020 is set aside.

8 Let appellant No 2 Md Sarfaraj above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Special Judge, SC/ST Act, Begusarai in connection with Khodawandpur PS Case No 188 of 2020 dated 15.09.2020 subject to the following conditions:

(1) That one of the bailors will be a close relative of appellant No 2 Md Sarfaraj who will give an affidavit giving genealogy as to how he is related with the appellant No 2 Md Sarfaraj. The bailor will also undertake to inform the Court if there is any change in the address of appellant No 2 Md Sarfaraj.



(2) That appellant No 2 Md Sarfaraj will be well represented on each date and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

9 This appeal is dismissed in so far as appellant No 1 Md Shekh Nageena @ Shekh Nageena @ Nageena @ Lageena is concerned.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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