

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.248 of 2022

Arising Out of PS. Case No.-123 Year-2021 Thana- PUNPUN District- Patna

Rohan Mahto, Son of Mishri Mahto, Resident of Village - Rasalpur, P.S.-
Punpun, Distt.- Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Roki Kumar, son of Shivpujan Paswan, Resident of village- Ghordaur, P.S.-
Punpun, District-Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ram Sumiran Rai, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl.PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 03-11-2022

Heard learned counsel for the appellant and learned
Spl.PP for the State.

Though the *Vakalatnama* of learned counsel for the
respondent no. 2/ informant is on record but none is present on
behalf of the respondent no.2/informant at the time of hearing.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail by
order dated 14.12.2021 passed by the learned Additional District
and Sessions Judge-IIIrd-cum-Special Judge SC/ST, Patna in



connection with Special Case No. 147 of 2021 arising out of Punpun P.S. Case No. 123 of 2021, registered for the alleged offences under Sections 147, 148, 149 and 302 of the Indian Penal Code and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes Act.

As per the prosecution case, the appellant and other co-accused persons, in the background of dispute between two groups of villagers, assaulted the father of the informant with *lathi* and *danda* causing grievous injury to him and he died subsequently.

The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. This fact is apparent from the FIR itself that the informant has lodged the FIR against 13 FIR named accused persons and 10 unknown persons without any specific allegation. Moreover, vague, general and omnibus allegations have been levelled against all the aforesaid persons including the appellant. It is also apparent from the FIR that the informant is not an eye-witness and in altercation took place between villagers of two villages and the appellant has been named merely on suspicion. Similarly situated co-accused persons, namely, Jitendra Mahto, Sunni Kumar, Ravi Kumar and Mangal Pandit have been



granted bail by different Co-ordinate Benches of this Court vide orders dated 13.09.2021 passed in Cr. Appeal (SJ) No. 3627 of 2021, 07.07.2022 passed in Cr. Appeal (SJ) No. 4686 of 2021 and 21.07.2022 passed in Cr. Appeal (SJ) 4723 of 2021, respectively. The appellant is in custody since 17.11.2021 and the charge sheet has been submitted in this case. The appellant is having clean antecedent.

Learned Spl.PP opposes the prayer for bail submitting that in the assault by the appellant and other co-accused persons, the father of the informant died.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that there are only general and omnibus allegation against a large number of persons without any specific overt act being attributed to this appellant and also considering the clean antecedent of the appellant as well as his period custody and submission of charge sheet, the appellant above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-III-cum-Special Judge SC/ST, Patna in



connection with Special Case No. 147 of 2021 arising out of Punpun P.S. Case No. 123 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Arun Kumar Jha, J)

balmukund/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.11.2022
Transmission Date	04.11.2022

