

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.289 of 2022

Arising Out of PS. Case No.-115 Year-2021 Thana- PARBATTa District- Khagaria

Bam Shankar Jha, Son of Late Jageshwar Jha, Resident of Village Muradpur,
P.S. Parbatta, District - Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Rekha Devi, W/o Satish Das, Resident of Village- Muradpur, P.S.- Parbatta,
District - Khagaria.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Shivam, Advocate
	:	Mrs. Vaishnavi Singh, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P
For the Informant	:	Mr. Rajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 03-11-2022

Heard learned counsel for the appellant and learned
Special P.P for the State as well as learned counsel for the
informant.

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 21.10.2021 passed by the learned Additional
Sessions Judge-1st-cum-Special Judge, SC/ST, Khagaria in
connection with Parbatta P.S. Case No. 115 of 2021, registered



for the alleged offences under Sections 147, 148, 149, 341, 323, 325, 379, 447 and 504 of the Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes Act.

As per the prosecution case, the appellant and other co-accused persons entered into the house of the informant, started abusing her by taking her caste name and tried to forcibly took away the niece of the informant. When the family members of the informant tried to rescue her, they were assaulted by the appellant and other co-accused persons. The accused person also took away the gold ornaments of the informant and tried to outrage the modesty of the informant.

The learned counsel appearing on behalf of the appellant submits that the allegations are out and out false and there is land dispute between the parties and police has investigated the matter and recommended for initiation of proceedings under Section 107 Cr.P.C. for the disputed land which is in possession of the appellant and the informant side has tried to forcibly take away the said land. The police has also reported that the said land belongs to the appellant. For the same occurrence, one Mala Devi has lodged Parbatta P.S. Case No. 116 of 2021 against the informant of the present case and others.



The aforesaid plot in question was given to one Vinod Das by the appellant and the informant side tried to oust him from the possession and assaulted Mala Devi and also tried to outrage her modesty and looted her articles. Learned counsel further submits that even on the facts of the FIR, it is apparent that there is no specific allegation against the appellant. In the background of this land dispute, S.D.M, Gogari instituted a case bearing Misc. Case No. 113(M) of 2021 and a notice was issued to the parties. Learned counsel further submits that it is clear that the appellant is innocent and has been falsely implicated in this case and is in custody since 21.09.2021 and the charges in this case have been framed. The co-accused Kunal Yadav has been granted bail by a Coordinate Bench of this Court vide order dated 19.10.2022 passed in Cr. Appeal(SJ) No. 1569 of 2022.

Learned Spl.PP as well as learned counsel appearing on behalf of the informant/respondent no. 2 vehemently oppose the submission made on behalf of the appellant. The learned counsel for the informant/respondent no. 2 submits that the appellant is involved in assaulting and threatening the informant and her family members and they have received injuries due to this assault. Learned counsel further submits that the informant suffered miscarriage due to this assault and charges have also



been framed against the appellant under Section 313 of the Indian Penal Code though, charge sheet was not submitted for the said offence.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the nature of allegation which appears to be general and omnibus without any specific act attributed to the appellant and further considering the framing of charge in this case and period of custody of the appellant, 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 Sessions Judge-1st-cum-Special Judge, SC/ST, Khagaria in connection with Parbatta P.S. Case No. 115 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.

(Arun Kumar Jha, J)

himanshu/-

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

