

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.436 of 2022

Arising Out of PS. Case No.-535 Year-2021 Thana- DUMRAO District- Buxar

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MUKESH KHARWAR SON OF AKSHAY LAL KHARWAR R/O
VILLAGE- ARAILA, P.S.- DUMRAON, DISTRICT- BUXAR, BIHAR

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. BACHHU LAL RAM SONS OF LATE JIRAKHAN RAM R/O VILLAGE-
AMSARI, P.S.- DUMRAON, DISTRICT- BUXAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Arvind Kumar Pradhan

For the Respondent/s : Mr.A.G

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 14-07-2022 Heard learned counsel for the appellant and learned APP
for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the appellant seeks bail in connection with SC/ST Dumraon P.S. Case No. 535 of 2021 registered for the alleged offences under Sections 406/ 420/ 120(B)/504 of the Indian Penal Code and under Sections 3(1) (r) (s) 3(2) (Va) of SC & ST (POA) Act.

The prosecution case is that the appellant took away Rs. 3,60,000/- of the informant/ respondent no. 2, which he kept in the dickey of the motorcycle of the appellant on his responsibility. When



the respondent no. 2 demanded money, he was abused by the appellant by taking his caste name.

The learned counsel for the appellant submits that the appellant has been falsely implicated in this case. FIR has been lodged two days after the alleged date of occurrence for which there is no explanation. The appellant did not accompany respondent no. 2 and respondent no. 2, along with his son, went to the place of occurrence and there was no occasion to keep the money in the dickey of the motorcycle of the appellant. Further, there is no eye witness to the alleged occurrence and nothing incriminating has been recovered from the possession of the appellant. Respondent no. 2 has fabricated to whole story against the appellant. The appellant is in custody since 26.12.2021.

Learned counsel appearing on behalf of the respondent no. 2 as well as learned APP for the State opposes the contention of learned counsel for the appellant. Learned counsel for the respondent no. 2 submits that there is no reasons for respondent no. 2 to falsely implicate the appellant and the appellant in this case took money of respondent no. 2 which was kept in the dickey of the motorcycle and also abused the respondent no. 2 by taking his caste name.

Perused the records.

Having regard to the submissions made hereinabove and considering the fact that there is no eye witness to substantiate the claim of the respondent no. 2 and lack of substantive material against



the appellant and also considering the 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 Special Judge, SC/ST, Buxar in connection with Dumraon P.S. Case No. 535 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence for 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.

The appeal stands allowed accordingly.

(Arun Kumar Jha, J)

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