

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.516 of 2022

Arising Out of PS. Case No.-94 Year-2021 Thana- NAUHATTA District- Saharsa

Ashok Chaudhary Son Of Surendra Chaudhary Resident Of Village-
Muradpur (TARAH), Ward No. 01, Police Station- Nawhatta, District-
Saharsa

... .. Appellant/s

Versus

1. The State of Bihar
2. Vikash Chaudhary Son Of Ramvilash Choudhary Resident Of Village-
Muradpur (TARAH), Ward No. 05, Police Station- Nawhatta, District-
Saharsa

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Satish Kumar Singh, Advocate
For the Respondent/s : Mr.Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 18-08-2022

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.

This is an appeal under Section 14(A)(2) of the
Scheduled Caste and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail vide
order dated 11.01.2022 passed by the learned Additional
Sessions Judge 3- Cum-Special Judge, Saharsa, in Special Case
No. 77/2021 arising out of Nawhatta P.S. Case No. 94 of 2021



registered for the alleged offences under Sections 147, 148, 149, 341, 323, 307, 504 and 506 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(1) (r) (s) of the Scheduled Cast and Scheduled Tribes (Prevention of Atrocities) Act.

From the office report, it transpires that notice has been served upon Respondent No. 2/ informant, still none is present on behalf of the Respondent No. 2.

As per prosecution case, the appellant along with other co-accused persons variously armed, have been threatening one Raghu Yadav and when the informant and one Nunu Lal Paswan tried to intervene to pacify them, co-accused Md. Parwez fired upon the informant and the shot hit him on the upper left side of chest.

Learned counsel for the appellant submits that the allegation against the appellant are false and concocted. It is apparent from the FIR that allegations are general and omnibus against the appellant and other co-accused persons and there is only one specific allegation and that is against co-accused Md. Parwez that he fired upon the informant causing injury to him. Even the institution of the case under the provisions of SC/SC (Prevention of Atrocities) Act is not justified, as the informant



belongs to extremely backward caste and he does not belong to either SC or ST category. Learned counsel further submits that a compromise has been arrived at between the parties and a petition to this effect has been filed before the learned court below on 23.12.2021. Even from the facts of the FIR, hardly any offence is made out against the appellant under the provisions of Indian Penal Code or under the SC/ST (Prevention of Atrocities) Act. Charge sheet has been submitted in this case and the appellant is in custody since 18.12.2021. The appellant has got clean antecedent.

Learned APP for the State opposes the prayer for bail of the appellant.

Having regard to the facts and circumstances and considering the absence of any specific overt act attributable to the appellant and further considering vague and general allegation made against the appellant and submission of charge sheet along with period of custody of the appellant and also considering the clean antecedent 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 3-cum- Special Judge, Saharsa in connection



with Special Case No. 77/2021 arising out of Nawhatta P.S.
Case No. 94 of 2021, subject to 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 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.

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

(Arun Kumar Jha, J)

Gautam/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.08.2022
Transmission Date	23.08.2022

