

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.909 of 2022

Arising Out of PS. Case No.-775 Year-2021 Thana- BARACHATTI District- Gaya

Mantu Yadav, Son Of Munshi Yadav, Resident of Village - Haraiya, P.S.-
Barachatti, Distt.- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Gita Devi, W/o Sri Raju Bhuiyan, Resident of Village - Haraiya, P.s.-
Barachatti and Distt.- Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Manish Kumar No2, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 04-08-2022

Heard learned counsel for the appellant and learned
Spl. P.P. 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 Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail by
order dated 11.02.2022 passed by the learned Exclusive Special
Judge, SC/ST Act, Gaya in connection with Barachatti
(Mohanpur) P.S. Case No. 775 of 2021 registered for the
offences under Sections 147, 148, 149, 323, 341, 504, 506 and



354(B) of the Indian Penal Code and Sections 3(1) (s) (r) (w) of the SC/ST (Prevention of Atrocities) Act, 1989.

As per the prosecution case, in the background of some land dispute, the appellant and other co-accused persons assaulted the complainant/informant and her family members with *lathi*, *danda*, fists and slaps. They also pull down a wall being erected by the informant on her land. Allegation against this appellant is that he sexually assaulted the informant.

Learned counsel for the appellant submits that the whole prosecution case is not believable. The land dispute is admitted and altogether nine persons of one family have been made accused in this case. It is not believable that father, uncle, sons and nephew have participated in an assault in which the petitioner allegedly sexually assaulted a female in presence of his eldest. False implication is further apparent from the date of registration of the case. For an occurrence dated 27.06.2021, the complaint has been lodged on 15.11.2021 i.e., almost five months after the alleged occurrence. The incorporation of provisions of SC/ST Act is only superfluous and to make the offence serious. In the background of land dispute, false implication cannot be ruled out. Though the assault has allegedly taken place but there is no injury report or anything



about the injury in the FIR. Further there is no reasonable explanation for delay in lodging of the FIR. Charge-sheet has been submitted and the petitioner is in custody since 10.01.2022.

Learned Spl.PP opposes the prayer for bail submitting that there is specific allegation against this petitioner for sexual assault against the informant.

Perused the records.

It appears from the record that the informant/respondent no.2 has appeared through Vakalatnama but no one is present on behalf of the respondent no.2.

Having regard to the facts and circumstances and also the submission made on behalf of the parties and further considering the fact that land dispute is apparent on the face of the record and there is strong possibility of false implication and further considering the submission of charge sheet in this case and also the period of his custody, 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 Exclusive Special Judge, SC/ST Act, Gaya in connection with Barachatti (Mohanpur) P.S. Case No. 775 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, preferably one of the parents.

(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)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	05.08.2022
Transmission Date	05.08.2022

