

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1155 of 2022**

Arising Out of PS. Case No.-1 Year-2022 Thana- SC/ST District- Muzaffarpur

RAJNISH KUMAR JHA S/o Late Raj Kumar Jha Resident of Mohalla-
Adarsh Village, Road No.1, Kolhua, Paigambarpur, P.S.- Ahiyapur, District-
Muzaffarpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pramod Kumar Singh, Advocate
For the Informant	:	Mr. Rajeev Ranjan No. II, Adv.
For the State	:	Mr. Sadanand Paswan, Spl.P.P

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

3 05-07-2022 The present matter has been listed under the heading
“To Be Mentioned” on the basis of motion slip filed on behalf of
the petitioner.

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

Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

The appellant has filed the instant appeal against the
order dated 05.03.2022 passed in SC/ST P.S. Case No. 01/2022
registered for the offences under sections 341, 323, 504, 506,
420, 419/34 of the IPC and under section 3(i) (r) (s) 3(2) (v9) of
SC/ST Act by the 3rd Additional Session Judge-cum-Special
Judge SC/ST (POA) Act, Muzaffarpur whereby and whereunder



the court below has rejected the bail petition of the present appellant.

Briefly stated the fact of the prosecution case is that the appellant Rajnish Kumar Jha and his wife have taken amount of Rs.1,50,000/- through cheque and Rs.1,50,000/- through cash from the informant for getting admission in Para Medical Course in their institution. For getting the said amount the accused persons regularly assured the informant for admission. After that, the co-accused Nutan Jha the wife of the appellant stated that admission is not possible, hence the amount would be returned. Despite repeated demands said amount was not paid. On 25.12.2021, when the informant along with others went to the house of the appellant and demanded the said amount, the appellant and his wife became angry and started abusing the informant by taking caste name. The accused persons also assaulted the informant's side by means of iron rod. However, the informant was saved by Sunil Kumar and Umesh Kumar.

Learned counsel for the appellant submits that the appellant has two criminal antecedents in which he is on bail. From the contents of the F.I.R. it is not the case of forgery and cheating rather the informant himself stated in the FIR that the



appellant asked the informant that admission could not be done so his money will be refunded, but the informant in a very haste manner filed this false case. It is submitted that informant has given only Rs.1,50,000/- to the appellant and he has not given any cash amount to the appellant and the claim of Rs.3 lakhs of informant is false. The allegation under SC/ST Act does not apply here because occurrence of SC/ST Act has not been committed on public place rather it has been committed inside the house of informant as per the contents of the F.I.R. The appellant is in custody since 18.02.2022 as mentioned in impugned order. The charge sheet has already been submitted and there is no likelihood of tampering the evidence. He further submitted that the learned court below has not appreciated the legal aspect and fact that the informant had given money to the appellant in his own interest and greed and the appellant is ready to return his money.

Learned counsel for the appellant has submitted a cheque amounting to Rs. 1,50,000/- bearing No. 84202050 dated 29.06.2022 drawn at Indian Overseas Bank in favour of Uday Shankar Ram (informant).

Learned counsel of the informant who accepts the acknowledgment by grant of receipt which is duly recorded in



the margin of note sheet of bail petition.

Learned Special P.P. does not controvert the aforesaid submission of the parties.

Considering the facts and circumstances of the case and the material available on record as well as positive attitude of the appellant towards making the payment of due amount, the court is inclined to allow the instant appeal. The appeal is allowed and the order dated 05.03.2022 passed in SC/ST P.S. Case No. 01/2022 at Muzaffarpur by the 3rd Additional Session Judge-cum-Special Judge SC/ST (POA) Act, Muzaffarpur is hereby set aside.

The appellant is directed to be enlarged on provisional bail for the period of two months from the date of receipt/production of copy of this order in connection with SC/ST P.S. Case No. 01 of 2022 on furnishing bail bond of Rs.10,000/ (Rupees Ten thousand) with two sureties of the like amount each to the satisfaction of the learned court of 3rd Additional Session Judge-cum-Special Judge SC/ST (POA) Act at Muzaffarpur, subject to the following conditions:-

(i) One of the bailors shall be Prajesh Kumar who has sworn the affidavit in bail application in the present case.

(ii) Appellant will co-operate in trial and will



remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iv) However, the learned court below shall confirm the provisional bail granted to the petitioner only after encashment of cheque so handed over to the counsel of the informant.

(Alok Kumar Pandey, J)

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