

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1393 of 2022

Arising Out of PS. Case No.-622 Year-2021 Thana- BARHARA District- Bhojpur

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BISHUN SINGH @ VIKASH KUMAR SINGH S/o Jitendra Singh Resident of Village-
Phuha (Phuhan), P.S.- Barahara, Dist.- Bhojpur (Arrah)

... .. Appellant/s

Versus

1. The State of Bihar
2. Sunita Devi W/o Rajmohan Rajak Resident of Village- Phuha
(Makhdumpur), P.S.- Barahara, Dist- Bhojpur (Arrah).

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Pramendra Kumar Singh, Advocate Mr. Sanjay Kumar, Advocate Mr. Tej Pratap Singh, Advocate
For the Respondent/s	:	Mr. Bindeswari Singh, A.G Ms. Usha Kumari, (Spl. PP)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 25-08-2022

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
11.03.2022 passed by the 1st learned Additional District and
Sessions Judge -cum-Special Judge, SC/ST, Bhojpur, Ara in
connection with Barhara P.S. Case No. 622 of 2021 registered



for the alleged offences under Sections 147, 148, 149, 354A, 379 and 302 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(i) (w)/ 3(2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

In this case, on the last date of hearing, case diary was called from the Superintendent of Police, Bhojpur but the case diary has not been received in this court.

Let an explanation from the Superintendent of Police, Bhojpur regarding non compliance of the order of 30.06.2022. However, learned counsel for the appellant submits that similarly placed co-accused have been granted bail vide order dated 14.07.2022 passed in Cr. Appeal (SJ) No. 1312/2022 and there is no specific allegation against this appellant and only specific allegation is against co-accused Amit Singh and another co-accused Vikash Singh and not this appellant. It has also been submitted on behalf of the appellant that in the learned trial court the informant has stated that she named the appellant under some misconception.

Despite direction, the case diary has not been received and the matter is put to hearing since it is felt that no useful purpose would be served in keeping the matter pending awaiting the case diary.



As per prosecution case, the appellant and other co-accused persons molested the informant and when the son of the informant tried to bring help, the co-accused persons shot him dead.

Learned counsel submits that the appellant has been falsely implicated in this case and it has come during investigation that two groups of villagers clashed in a game of gambling and in the accidental fire, son of the informant died. The informant was manipulated and made to sign on blank paper which was used to implicate the appellant and other co-accused persons. No one has seen the actual occurrence and the version of FIR is false and concocted. Moreover, the allegation of firing is on co-accused Vikash Singh and not this appellant. The co-accused Rahul Kumar Singh has been granted bail vide order dated 14.07.2022 passed in Cr. Appeal (SJ) No. 1312/2022. The appellant has got clean antecedent and he is in custody since 21.01.2022. Charge sheet has been submitted in this case.

Learned APP for the State opposes the prayer for bail of the appellant submitting that there is specific allegation against the appellant and other co-accused persons and the occurrence has taken place in furtherance of the common



intention of all to kill the son of the informant. However, learned counsel appearing on behalf of the informant submits that the informant has lodged this case against the appellant under misconception and she has since withdrawn her allegation by filing an application before the learned trial court.

Having regard to the submission made on behalf of the parties and considering the facts and circumstances of the case that there is no serious allegation against this appellant except that he was present at the time of alleged occurrence and teased the informant and also considering the clean antecedent of the appellant and further submission of charge sheet along with his period of 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 1st Additional District & Sessions Judge -cum-Special Judge (SC/ST), Bhojpur, Ara in connection with Barhara P.S. Case No. 622 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.

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	29.08.2022
Transmission Date	29.08.2022

