

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1452 of 2022

Arising Out of PS. Case No.-304 Year-2020 Thana- BAKHARI District- Begusarai

Hari Narayan Mahto Son Of Rambilash Mahto Resident Of Village - Darha,
Hari Singh Ward No.02, P.S.- Bakhri, Distt.- Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sandip Kumar Gautam, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.PP
For the Informant	:	Mr. Arjun Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 29-09-2022

Vide order dated 15.09.2022, an explanation has been called for from the learned Exclusive Special Judge, the SC/ST (POA) Act, Begusarai as the copy of case diary along with post mortem report, present stage of trial as well as time likely to be taken for the conclusion of the same have not been sent towards compliance of orders dated 30.06.2022 and 01.09.2022. Now, a report has been received from the Incharge Special Judge the SC/ST (POA) Act, Begusarai dated 24.09.2022 wherein he has stated that the special court of the SC/ST (POA) Act has been vacant since 27.05.2022 and he has been Incharge of the said court since 02.08.2022. He has also submitted that when he became the Incharge in this court he had sent a report dated 06.09.2022 and a copy of the same has



also been annexed. Thus, the learned Incharge Court has submitted to be excused from the above cause. The report dated 24.09.2022 is taken on record and for reason mentioned in the report, the same is accepted.

Heard learned counsel for the appellant, learned counsel for the State and learned counsel for the informant.

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

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 17.01.2022 passed by learned Exclusive Special Judge SC/ST (POA) Act, Begusarai in connection with Bakhri P.S. Case No. 304 of 2020 registered for the alleged offences under Sections 147, 148, 149, 341, 323, 307, 302, 504 and 506 of the Indian Penal Code and Sections 3 (1)(r)(s)/3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the appellant asked one Ajay Sada to cut a tree and on his refusal he assaulted him. The husband of the informant, Yogendra Sada tried to save him.



Thereafter, the appellant and other co-accused persons assembled and hurling abuses started assaulting Ajay Sada, Yogendra Sada, Biran Sada and Indal Sada with lathi and danda. Further, allegation against this appellant is that he fired upon Yogendra Sada in his abdomen and he died during his treatment.

Learned counsel for the appellant submits that on the earlier occasion, the appeal of this appellant for grant of bail was rejected by a Co-ordinate Bench vide order dated 22.09.2021 passed in Cr. Appl. (SJ) No.1826 of 2021. The learned counsel further submits that it is a case of false implication as the allegation of assault by a number of persons with *lathi* and *danda* has not been proved as no such injuries have been found on the person of the allegedly injured persons. Even on the deceased, no external injury was found over his body caused by hard and blunt substance. The learned counsel further submits that more than a year has elapsed since charges have been framed against the appellant but trial has not proceeded any further and none of the prosecution witnesses have been examined till date. The appellant is in custody since 07.10.2020.

Learned Spl.PP as well as learned counsel appearing



on behalf of the respondent no.2/informant oppose the submission made on behalf of the appellant. It has been submitted by the learned counsel for the respondent no.2 that there is specific allegation against the appellant that he fired upon the deceased and post mortem report also shows the cause of death was firearm injury. On the said ground earlier bail prayer for of this appellant was rejected. Due to Covid-19 and the special court remaining vacant for long, trial has not proceeded in the matter.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties, it appears that the trial might not have proceeded due to pandemic and the Special Court remaining vacant. However, considering the fact that no fresh ground apart from the delay in trial has been brought on record, I am not inclined to enlarge the appellant on bail due to specific nature of allegation against the appellant which is quite grave and serious.

Hence the prayer for bail is rejected and the appeal is dismissed.

Further, the office is directed to place a copy of this order before Hon'ble the Chief Justice on administrative side regarding vacancy existing in the Special Court under SC/ST



(POA) Act, in Begusarai since as per mandate of the law and proviso to Section 14 (3) of the SC and ST (POA) Act, 1989, trial should be concluded within two months from the date of filing of the charge-sheet.

It is directed that after a regular Presiding Officer is appointed in the Special Court, trial would be expedited and concluded at the earliest.

(Arun Kumar Jha, J)

Rajnish/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.10.2022
Transmission Date	01.10.2022

