

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1419 of 2022

Arising Out of PS. Case No.-40 Year-2020 Thana- CHERIYA BARIYARPUR District-
Begusarai

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Kundan Kumar, Son of Dukhi Sahni @ Dukhi Sahani, Resident of Village -
Rampur Ghat, P.S.- Cheriya Bariyarpur, Distt.- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Binod Das, Son of Ram Baran Das, Resident of Village- Rampur Ghat, P.S.-
Cheriya Bariyarpur, Dist- Begusarari

... .. Respondent/s

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with
CRIMINAL APPEAL (SJ) No. 1733 of 2022

Arising Out of PS. Case No.-40 Year-2020 Thana- CHERIYA BARIYARPUR District-
Begusarai

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Chandan Kumar, Son of Dukhi Sahni @ Dukhi Sahani, Resident of Village-
Rampur Ghat, P.S.- Cheriya Bariyarpur, District - Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 1419 of 2022)

For the Appellant/s : Mr. Sandip Kumar Gautam, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl.PP

(In CRIMINAL APPEAL (SJ) No. 1733 of 2022)

For the Appellant/s : Mr. Sandip Kumar Gautam, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl.PP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-09-2022

Heard learned counsel for the appellants and learned
counsel for the State.

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



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 orders dated 24.03.2022 and 07.05.2022, respectively passed by learned Exclusive Special Judge SC/ST (POA) Act, Begusarai in connection with Cheriya Bariyarpur P.S. Case No. 40 of 2020 registered for the alleged offences under Sections 341, 323, 504, 302 and 34 of the Indian Penal Code and Sections 3 (i) (r) (s), (w) and 3 (2) (v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, over a dispute of drainage of rain water, the appellants and co-accused, variously armed, came to the house of the informant and assaulted him with fists, *lathi* and *danda*. When the mother of the informant tried to save him, appellant Chandan Kumar along with co-accused Dharmendra Choudhary hit on the head and body of the mother of the informant with iron rod and she died at the spot. The wife and son of informant were also assaulted.

Learned counsel for the appellants submits that the appellants have been falsely implicated in this case. There was no intention to cause death of any of the persons. If there were



any intention, the appellants and other co-accused persons might have easily committed the murder of the informant or the son or the wife. But as there was no intention, no such assault was made. In fact when the altercation has been taking place, mother of the informant tried to pacify the matter, she was assaulted by rod over the head by the co-accused and this appellant as the witnesses have stated. She became unconscious and fell down on the ground. But she received only one injury over head. It shows the appellant Chandan Kumar was not involved in the assault. Post mortem report of the mother of the informant also shows single injury over head and said injury is stated to be the cause of her death. There is no specific allegation against appellant Kundan Kumar. The appellants are in custody since 20.12.2021 and charge-sheet has been submitted.

Learned Spl.PP opposes the submission made on behalf of the appellants. Learned Spl.PP submits that there is specific allegation against appellant Chandan Kumar and co-accused Dharmendra Choudhary that they assaulted the mother of the informant with iron rod and subsequently she died as a result of this assault.

Having regard to the facts and circumstances and



considering the fact that the allegation against petitioner Kundan Kumar is non-specific and only general allegations regarding assault by his fists, *lathi* and *danda* has been made against him along with other co-accused persons and further considering the fact that the allegation of assault on mother of the informant is against appellant Chandan Kumar along with co-accused Dharmendra Choudhary and there appears some doubt over involvement of this appellant as only one injury has been found on the person of the mother of the informant and further considering the period of their custody and submission of charge sheet, they are 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 (POA) Act, Begusarai in connection with Cheriya Bariyarpur P.S. Case No. 40 of 2020, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellants 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 appellants will be liable to be cancelled
by the court concerned.

Accordingly, the impugned orders are set aside and the
appeals are allowed.

(Arun Kumar Jha, J)

Rajnish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

