

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1499 of 2022

Arising Out of PS. Case No.-25 Year-2021 Thana- SC/ST District- Buxar

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BRAJESH KUMAR OJHA Son of Late Surendra Nath OJha Resident of
Village - Garharaiya, P.S. Sikrawal, District - Buxar.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Jagaru Ram S/o Late Birbal Ram Resident of Village - Sarenja, P.S. - Rajpur,
District - Buxar.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Radha Mohan Singh,Advocate Mr. Satyam Anand, Advocate
For the Respondent/s	:	Ms.Usha Kumari I, Spl. PP Mr. Ashwani Kumar Rai, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-09-2022

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 Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail vide
order dated 09.03.2022 passed by the learned Additional District
Judge Ist-cum-Special Judge, (SC/ST), Buxar in connection
with Buxar SC/ST P.S. Case No. 25 of 2021 registered for the



alleged offences under Sections 323, 341, 504, 506 and 34 of the Indian Penal Code and Section 138 of N.I. Act and Sections 3(i) (r) (s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution case, the appellant and other co-accused cheated the informant of Rs. 3,50,000/- and the appellant issued a cheque for the said amount in favour of the son of the informant and the said cheque was dishonoured. The co-accused abused and assaulted the informant and his son.

Learned counsel for the appellant submits that from the F.I.R., it is apparent that there is no specific allegation against the appellant for any wrong doing. It is also apparent from the F.I.R. that the allegation is against the co-accused Krishna Upadhayay who assured to sale his land to the informant and who received the money as consideration thereof. If the land has been taken by the co-accused then why would the appellant issue a cheque in favour of the son of the informant for consideration of the land and this shows the prosecution story is not believable. In fact, the cheque got bounced on 17.09.2021 and legal notice was given to the appellant on 04.10.2021 and after the lapse of two months, the instant case has been filed by the informant using his caste category. Even



the allegation of assault is not against the appellant. No offence under any of the section mentioned in the FIR against this appellant. The appellant is in custody since 30.01.2022 and charge sheet has been submitted in this case.

Learned APP for the State and learned counsel appearing in behalf of the respondent no. 2 opposes the submission made on behalf of the appellant. Learned counsel for the respondent no. 2 submits that the appellant is a habitual offender and he is accused in three other cases as well. He is used to taking money on pretext of providing job to candidates and then collecting money from such persons.

Having regard to fact and circumstances and submission made on behalf of the parties and further considering the general and vague nature of allegation against the appellant without any specific overt act being attributed to him and also considering the 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 A.D.J.-1st-cum-Special Judge (SC/ST), Buxar in connection with Buxar SC/ST P.S. Case No. 25 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	13.09.2022
Transmission Date	13.09.2022

