

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1467 of 2022**

Arising Out of PS. Case No.-450 Year-2020 Thana- SAUR BAZAR District- Saharsa

Brahmdev Sada, Son of Asharfi Sada, Resident of Village - Harkutta
Mushahari , Ward no12, P.s.- Sour Bazar, (O.P. Baijnathpur), Distt.- Saharsa.

... .. Appellant/s

Versus

1. The State of Bihar
2. Shobha Devi W/o Pulkit Paswan Resident of Village - Dhanchhoha, P.s.-
Sour Bazar, Distt.- Saharsa.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amarnath Jha

For the Respondent/s : Mr.Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 11-08-2022

I.A. No.01 of 2022

This interlocutory application has been filed for
condoning the delay in preferring the present appeal.

For the reasons mentioned in this interlocutory
application, I am satisfied that the appellant was prevented from
sufficient cause in preferring this appeal within time.

Accordingly, this interlocutory application is
allowed and the delay in filing this appeal is hereby condoned.

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The learned counsel for the appellant submits that
the appellant himself belongs to Scheduled Caste category and
there will be no application of any provisions of SC/ST (POA)



Act, so there would not be any need to serve the notice on the respondent no.2, the informant of this case.

For the aforesaid reasons, the matter has been taken up and put up for hearing in absence of the respondent no.2.

Heard learned counsel for the appellant 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 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 by order dated 30.07.2021 passed by the learned Additional Sessions Judge-III-cum-Special Judge, SC/ST Act, Saharsa in Special SC/ST Case No. 131 of 2020, arising out of Sour Bazar (Bajinathpur OP) P.S. Case No. 450 of 2020, registered under Sections 341, 323, 302, 201, 504, 506, 34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(1) (r) (s) 3 (2) (V) of the SC/ST Act.

As per the prosecution case, the husband of the informant was murdered and she named two co-accused persons, namely Vish Prakash Bharti and Rajendra Yadav for



being involved in the alleged occurrence. Later on, the name of the appellant transpired as one of the co-accused persons, who was involved in the murder of the husband of the informant along with some other co-accused persons and their names came up in the confessional statement of one Nirbudh Sada.

The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. He was not named in the FIR and nothing incriminating has been recovered from his possession. His name came up in the confessional statement of co-accused Nirbudh Sada, who has been granted bail by a Coordinate Bench of this Court vide order dated 01.11.2021 passed in Cr. Appeal (SJ) No. 3036 of 2021. Except for confessional statement of co-accused, there is nothing against this appellant. The learned counsel further submits that the charge sheet has been submitted in this case and the appellant is in custody since 19.03.2021 and is having clean antecedent.

Learned Special PP opposes the prayer for bail submitting that the name of the appellant transpired during investigation.

Perused the records.

Having regard to the submissions made here-in-



above and considering the fact that the petitioner is not named in the FIR and no substantive material came up against him during investigation except for confessional statement of the co-accused and further considering the fact that other co-accused persons have been granted bail and also considering the fact that charge sheet has been submitted and the appellant is in custody since 19.03.2021 and is having clean antecedent, let the appellant, above named, be released on bail, on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III-cum-Special Judge, SC/ST Act, Saharsa in connection with Special SC/ST Case No. 131 of 2020, arising out of Sour Bazar (Bajinathpur OP) P.S. Case No. 450 of 2020, subject to 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 is allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	11.08.2022
Transmission Date	11.08.2022

