

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1633 of 2022

Arising Out of PS. Case No.-519 Year-2021 Thana- BAHADURPUR District- Darbhanga

Purushottam Kumar Choudhary @ Purushottam Kumar @ Prusotam Kumar
@ Mithu Chy @ Mithu Choudhary, Son of Shyam Shankar Choudhary @
Shyam Shankar Chy @ Lalan, R/O Village- Darhar, P.S.- Bahadurpur,
District- Darbhanga. ... Appellant/s

Versus

1. The State of Bihar
2. Usha Devi, Wife of Late Basudeo Paswan, R/O Village- Kabilpur, P.S.-
Bahadurpur, District- Darbhanga. ... Respondent/s

Appearance :

For the Appellant/s : Mr. Gajendra Kumar Jha, Advocate
For the Respondent/s : Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 22-09-2022 The office has pointed out that notice has validly
served on respondent no.2

Learned counsel for the appellant is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Gajendra Kumar Jha, learned counsel
appearing on behalf of the appellant and learned Spl. PP for the
State.

The present appeal under Section 14(A) (2) of the
Scheduled Caste/Scheduled Tribe, Prevention of Atrocities Act,
(hereinafter referred to as 'SC/ST Act') has been preferred
against the order dated 19.01.2022 passed by learned 3rd
Additional Sessions Judge-cum- Exclusive Special Judge,
SC/ST Act, Darbhanga in connection with Bahadurpur P.S. case



no. 519 of 2021 registered for the offences punishable under Sections 341, 342, 323, 386, 307, 379, 506, 504/34 of the Indian Penal Code and Sections 3(i)(r)(s) of the SC/ST Act whereby the prayer for grant of regular bail of the appellant has been rejected.

As per prosecution case, it is alleged that on 07.10.2021 at 10.45 P.M., while the labourers were returning to their home, in the mean time, appellant and his friend intercepted and demanded Rangdari. When the son of the informant shown his inability to pay the extortion amount, he was assaulted by them with fists and slaps and abused by taking his caste name. It is further alleged that when the informant raised hulla, the appellant assaulted him by means of sharp edge iron Katta, causing injury over his head and also snatched cash of Rs.450/- and golden chain.

Learned counsel appearing on behalf of the appellant submits that admittedly the occurrence took place at about 10.45 P.M. and just near the place of occurrence there was Bahadurpur police station, but no information has been given and the F.I.R. has been instituted on the next day, at about 8.15 AM, in the morning. He further submits that though there is allegation that son of the informant was assaulted by means of Iron Katta, but



the sharp lacerated wound has been found over the frontal region of the head. He next submits that in fact on account of some altercation, a scuffle took place, due to which the son of the informant has received some injuries, which later on resulted into lodging of the present case. He next submits that there are various discrepancies in the statement of the witnesses, whose statements have been recorded during the course of investigation, which shows the falsity of the prosecution case. He lastly submits that the appellant is in custody since 25.10.2021 and after completion of the investigation, charge-sheet has been submitted.

On the other hand, learned counsel for the State vehemently opposes the bail application and submits that there is specific allegation against the appellant that he assaulted over the head of the son of the informant by means of Katta and the injury report suggests grievous injury on a vital part.

Regard being had to the submissions made on behalf of the parties and considering the nature of allegation, as also the fact that there is no repetition of blow and the period of incarceration of the appellant, apart from other inconsistency as reflected in the statement of the witnesses, let the appellant, named above, be released on bail on furnishing bail bonds of



Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned learned Exclusive Special Judge, SC/ST Act, Darbhanga in connection with Bahadurpur P.S. case no. 519 of 2021, subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the appellant and in case, at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.



Accordingly the impugned order dated 19.01.2022 is
hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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