

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1684 of 2022

Arising Out of PS. Case No.-80 Year-2021 Thana- BAJPATTI District- Sitamarhi

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Kishor Mahto, S/o Late Dorik Mahto Resident of Village- Keshopur, Dhadhi,
P.S.- Bajpatti, District- Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rabindra Nath Kanth, Advocate
For the Respondent/s : Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 30-06-2022 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 22.03.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi in connection with Bajpatti P.S. Case No. 80 of 2021, registered under Sections 147, 148, 149, 323, 324, 325, 337, 338, 353, 307 and 427 of the Indian Penal Code and Section 3 (1) (r), (s) of SC/ST (POA) Act.

Allegedly, the informant, a police personnel, along with police party conducted a raid in the house of the appellant on information that he had been dealing in trade of illicit liquor. The appellant and other co-accused persons assaulted the police party and took the caste name of the informant, a member of scheduled caste.

Learned counsel for the appellant submits that there is general and omnibus allegation against all the accused persons including this appellant. The injuries are simple in nature and there has been no attempt on life of any person as is obvious from the FIR itself. Injuries on the person of the police personnel are simple in nature. The learned counsel further submits that even the allegation of taking caste name of the informant took place in the house of the appellant and so the provisions of SC/ST (POA) Act are not applicable. Similarly, placed co-accused persons have been allowed bail by a co-ordinate Bench of this Court vide order dated 3.08.2021 passed in Cr. Appeal (SJ) No. 2996 of 2021 and vide order dated 6.09.2021 passed in Cr. Appeal (SJ) No. 3343 of 2021. The appellant is in custody since 06.01.2022.

Learned Special PP opposes the submission made on behalf of the appellant. He submits that the appellant and other

co-accused persons attacked the police party and abused the informant by taking his caste name. However, he admitted that other co-accused persons have been allowed bail by a co-ordinate Bench of this Court.

Having regard to the submissions made here-in-above, particularly the general and omnibus allegations against the appellant and further taking into consideration the place of occurrence, which is stated to be the house of the appellant, who is in custody since 06.01.2022 , 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 the learned 1st Additional Sessions Judge-cum- Special Judge, S.C./S.T. (POA) Act, Sitamarhi in connection with Bajpatti P.S. Case No. 80 of 2021, subject to the following conditions:

(i) One of the bailors will be a close relative of the appellant, preferably one of the parents.

(ii) The appellant will remain present on each and every date fixed by the court below.

(iii) In case of absence for 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/-

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