

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1712 of 2022**

Arising Out of PS. Case No.-402 Year-2020 Thana- SAKRA District- Muzaffarpur

Biswanath Sah, Son of Late Ramphal Sah, Resident of Village - Narayanpur
Sapahi (Marwan), P.S. - Sakra, District - Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Binda Devi Wife of Devendra Thakur Resident of Village - Marwan, P.S. -
Sakra, District - Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manoj Kumar, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl. PP

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

Date : 01-12-2022

Heard learned counsel for the appellant, learned counsel
for the State.

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

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 23.03.2022 passed by learned Additional Session
Judge-cum-Special Judge, SC/ST(POA) Act, Muzaffarpur in
connection with Sakra P.S. Case No. 402 of 2020 registered for
the alleged offences under Sections 147, 148, 149, 329, 307 and
394(b) of the Indian Penal Code and Sections 3 (2)(r)(s) of



Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the petitioner and other co-accused persons who were variously armed came to the house of the informant and used abusive caste language and assaulted them. The informant and her family members received a number of injuries in this assault.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case as no occurrence as alleged has ever taken place. The present case is counterblast of Sakra P.S. Case No. 547 of 2020 which has been registered for the offences on the same date. The son of the informant of the present case and his employee used to eve tease the minor daughter of the co-accused Munchun Devi. When the complaint was made they assaulted the co-accused and the appellant and others. The co-accused was admitted to SKMCH on 22.08.2020. Learned counsel further submits that there would be no application of provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act since the caste of *lohar* has been taken out from the list of Schedule Caste by the order of the Supreme Court. Similarly placed co-accused persons have been granted bail by



a Coordinate Bench of this Court vide order dated 14.07.2022 passed in Cr.App.(SJ) No. 877 of 2022. The appellant is in custody since 05.03.2022 and charge-sheet has been submitted. The appellant has got no criminal history.

Learned Special PP opposes the prayer for bail.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties and considering the nature of allegation coupled with the background of the dispute between the parties and further considering the period of custody of the petitioner along with submission of charge sheet, he 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 Additional Session Judge-cum-Special Judge, SC/ST Act, Muzaffarpur in connection with Sakra P.S. Case No. 402 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 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)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.12.2022
Transmission Date	02.12.2022

