

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2126 of 2022**

Arising Out of PS. Case No.-84 Year-2022 Thana- AIRPORT District- Patna

Md Akbar S/O Late Rafique Quraishi, Resident Of Mohalla- Khajpura
Mukhiyaji Gali, P.S.- Hawai Adda, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Rakesh Kumar, S/O Late Manoj Chaudhary, Resident Of Raja Bajar
Chaudhary Tola, Ward No.4, Police Station- Hawai Adda, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sanjeev Ranjan, Advocate
For the State	:	Mr.Binay Krishna, Spl.P.P.
For the respondent no.2	:	Mr. Abhijit Gautam, Advocate

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

Date : 29-09-2022

Heard learned counsel for the appellant, learned
Spl.PP for the State and learned counsel for the respondent no.2.

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 23.05.2022 passed by the Exclusive Special Court,
SC/ST Act, Patna in connection with Hawai Adda P.S. Case No.
84 of 2022, registered for the alleged offences under Sections



324, 323, 326, 307, 504, 34 of the Indian Penal Code and Section 3 (i) (s)/ 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution case, the maternal grandmother of the informant has been a street vendor and used to sell corn. On the date of occurrence, the appellant and co-accused asked the grandmother of the informant to remove her shop and hurled abuses taking her caste name. When the grandmother of the informant forbade them from doing so, both of them assaulted the grandmother of the informant with *dabiya* and she sustained injuries for which she was being treated in a hospital.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case and he has not committed any offence. From the FIR, it is apparent that the informant was not present at the spot when the incident took place and he has not disclosed the source of his information. The victim lady has been examined during investigation and she specifically named the co-accused Md. Mumtaz who assaulted her and has not attributed any overt act against the appellant except saying that the accused worked on the shop of this appellant. She did not even say that the appellant ever abused her by taking her caste name. In view of



her statement, the parties have settled their dispute and a compromise petition has been filed before the learned court below. The appellant is in custody since 31.03.2022 and is having clean antecedent. The charge sheet has been submitted.

Learned Spl.P.P. as well as learned counsel appearing on behalf of the respondent no.2 opposes the prayer for bail of the appellant. It has been submitted by the learned counsel for the informant that there is specific allegation against the appellant and the co-accused for assaulting the grandmother of the informant with *dabiya*. However, learned counsel admits the factum of compromise between the parties.

Perused the records.

Having regard to the facts and circumstances and the submission made on behalf of the parties and considering the statement of victim wherein she has not made any allegation against this appellant and further considering the period of custody of the appellant along with submission of charge sheet as well as clean antecedent, 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 Exclusive Special Court, SC/ST Act, Patna, in connection with Hawaii Adda P.S. Case No.



84 of 2022, 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)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.10.2022
Transmission Date	01.10.2022

