

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2122 of 2022**

Arising Out of PS. Case No.-213 Year-2021 Thana- BUNIYAD GANJ District- Gaya

Arvind Yadav @ Loutha Yadav, Son of Mahesh Yadav @ Doman Yadav,
Resident of Village - Sadipur, P.S.- Buniyadganj, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Surendra Choudhary @ Guddu Choudhary Son of Late Ramswaroop Choudhary Resident of village Alipur, P.O.-Alipur P.S.- Buniyadganj, Dist- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ajay Kumar Sinha, Advocate
For the State	:	Mr.Usha Kumari 1, Spl.P.P.
For the respondent no.2	:	Mr. Vinod Kumar, 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 10.06.2022 passed by the learned Exclusive Special
Judge, SC/ST, Gaya in connection with Buniyadganj P.S. Case
No. 213 of 2021, registered for the alleged offences under



Sections 147, 148, 323, 341, 302 of the Indian Penal Code and Section 3(2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution case, the brother of the informant was assaulted by 5 named and 3-4 not named co-accused persons who later on succumbed to his injuries. The name of the appellant transpired as one of the accused persons during investigation.

Learned counsel for the appellant submits that the appellant is not named in the FIR and he has been falsely implicated in this case merely on suspicion. The name of the appellant came up during investigation in the statement of some of the witnesses, who stated that the appellant was also one of the assailants. However, the allegation against the appellant is general and omnibus along with other co-accused persons. The informant is not an eye witness to the occurrence. No offence under the provisions of SC/ST Act are made out against the appellant. The appellant is in custody since 22.02.2022 and the charge sheet has been submitted. The petitioner is having clean antecedent.

Learned Spl.P.P. as well as learned counsel appearing on behalf of the respondent no.2 oppose the prayer for bail of



the appellant. It has been submitted by the learned counsel for the informant that one Dipak Singh is an eye witness and his statement has been recorded in paragraph 6 of the case diary and he has named this appellant who was one of the assailants. The other witnesses in paragraphs 7 and 8 of the case diary have also named the appellant as one of the assailants.

Perused the records.

Having regard to the facts and circumstances and the submission made on behalf of the parties and considering the fact that no specific overt act has been attributed to 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 Judge, SC/ST, Gaya, in connection with Buniyadganj P.S. Case No. 213 of 2021, 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	30.09.2022
Transmission Date	30.09.2022

