

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2658 of 2022

Arising Out of PS. Case No.-120 Year-2021 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Bhikhari Sah @ Bhikhari Kumar Sah @ Bhikhari Kumar S/o Ram Badan
Sah, Resident of Village - Pahsara, P.S.- Nawkothi, Begusarai.

... .. Appellant

Versus

1. The State Of Bihar
2. Renu Devi Hare Ram Paswan Resident of Village-Pahsara, P.O.-
Babhangama, P.S.-Nawkothi, Distric-Begusarai

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Arjun Prasad, Advocate
For the Respondent/s	:	None

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-12-2022

Perusal of office note shows notice sent under the registered cover has been received by the husband of the informant and hence the informant is found to be validly served. However, none is present on behalf of either the informant or the State.

Learned counsel for the appellant submits that in paragraph-1 of the Memo of Appeal, inadvertently, Section 27 of the Arms Act has been left to be mentioned. He seeks permission to correct the error in course of the day.

Permission is accorded.

Heard learned counsel for the appellant.

Let the defect (s), if any, 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 10.04.2022 passed by learned Special Judge SC/ST (POA) Act, Begusarai, in connection with Nowkothi P.S. Case No. 120 of 2021 registered for the alleged offences under Sections 147, 148, 149, 341, 323, 385, 387, 504 and 506 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r)(s), 3(2)(vs) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the appellant and other co-accused persons entered into the house of the informant and abused her by taking her caste name and threatened her that her husband and brother-in-law would be killed if extortion money of Rs. 30,000/- per month was not paid to them. Further allegation against the appellant is that he along with co-accused Chhote Kumar exploded bomb in front of the house of the informant and another co-accused Shubham Kumar resorted to indiscriminate firing.

Learned counsel for the appellant submits that the F.I.R. has been registered after two days of the alleged occurrence and this shows deliberation and after thought. There



is no explanation for this delay. The appellant has falsely been implicated in this case and this fact is also evident from the investigation carried out by the police that no used cartridge or bullet were found from the spot and no one got injured in this firing or explosion. Nothing incriminating has been recovered from the person or possession of the petitioner. Since no extortion money was handed over, there will be no application of Section 387 of Indian Penal Code. Learned counsel further submits that in fact the appellant has been implicated in this case due to some previous dispute between the parties as they are co-villagers. Learned counsel further submits that co-accused person, namely, Shuvam Kumar Singh @ Shuvam Kumar has been granted by this Court vide judgment dated 08.09.2022 passed in Criminal Appeal (SJ) No. 1465 of 2022. Charge-sheet has been submitted in this case and the appellant is in custody since 02.11.2021.

Having regard to the facts and circumstances and submissions made on behalf of the appellant and considering the allegation against the appellant which is not supported by the material on record and further considering the period of custody of the appellant along with submission of charge sheet, he 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 Special Judge SC/ST (POA) Act, Begusarai, in connection with Nowkothi P.S. Case No. 120 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

(i) The bail bond of the appellant will be accepted only after framing of charge, if not already framed.

(ii) One of the bailors will be a close relative of the appellant.

(iii) 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)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13-12-2022
Transmission Date	13-12-2022

