

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2547 of 2022

Arising Out of PS. Case No.-155 Year-2022 Thana- LAURIA District- West Champaran

Sanjay Yadav, Son of Hira Yadav, R/O Village- Barwa, P.S.- Lauriya, District- West Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Sandip Kumar, Gond Son of Tufani Gond, R/O Village- Khap Tola, Ward No.-14, P.S.- Lauriya, District- West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey, Advocate

For the Respondent/s : Mr.Usha Kumari 1, SPL. P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 15-12-2022

Notice send through ordinary process has been received by the father of the respondent no. 2 but none appeared on the previous date of hearing on behalf of the respondent no. 2. Today also none is present on behalf of the respondent no. 2. Hence, the matter has been put up for hearing.

Heard learned counsel for the appellant and learned Spl. P.P. 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 vide order dated 04.07.2022

passed by the learned Additional District and Sessions Judge 1st-cum- Special Judge, SC/ST, Bettiah, West Champaran in B.P. No. 2870 of 2022 in connection with Lauriya P.S. Case No. 155 of 2022 registered for the alleged offences under Sections 341, 342, 323, 307, 379 and 34 of the Indian Penal Code and Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per prosecution case, when the informant demanded back his money which he has given to the co-accused as a loan, the appellant along with other co-accused persons assaulted him with rod and bricks. They also hanged the informant in ceiling fan. The persons of neighbourhood assembled and pulled the informant down from the hanging fan. The informant was sent to hospital for his treatment.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. There is no specific allegation of assault against this appellant and there is only general and omnibus allegation of assault against the appellant and other co-accused persons. No reason has been assigned for the appellant to get involved in the alleged occurrence. Whatever, the dispute was, between the informant and the co-accused Bablu Lal and when the appellant went to intervene in the matter after hearing the hue and cry, the informant mistakenly thought him to be an interested party on behalf of the other co-accused persons. However, the injuries of the informant are simple in nature and are mostly

superficial caused by hard and blunt substance. Learned counsel further submits that there is delay of seven days in lodging the F.I.R. for which there is no explanation. Charge sheet has been submitted in this case and the appellant is in custody since 21.05.2022. The appellant has got clean antecedent.

Learned Special Public Prosecutor for the State opposes the prayer for bail of the appellant submitting that there is specific allegation against the appellant that he put the *gamcha* in the neck of the informant and hanged him on the ceiling.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the nature of allegation against the appellant coupled with submission of charge sheet along with period of custody of the appellant, 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 Additional District and Sessions Judge 1st-cum-Special Judge (SC/ST), Bettiah, West Champaran in B.P. No. 2870 of 2022 in connection with Lauriya P.S. Case No. 155 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)

Gautam/daya

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2022
Transmission Date	19.12.2022