

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2656 of 2022**

Arising Out of PS. Case No.-113 Year-2020 Thana- SULTANGANJ District- Bhagalpur

Devendra Kumar @ Kailu Yadav, Son of Indradeo Yadav Resident of Village
- Kolgama, P.s.- Sultanganj, Distt.- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Nembu Ram Son of Mukundi Ram Resident of Village - Kolgama, P.s.-
Sultanganj, Distt.- Bhagalpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Praveen Kumar, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.
For the respondent no. 2	:	Mr. Swapnil Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 15-12-2022

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 22.06.2022 passed by the learned Additional
Sessions Judge III-cum- Special Judge (SC/ST Act),
Bhagalpur in connection with Special SC/ST Case No. 217 of
2020 arising out of Sultanganj P.S. Case No. 113 of 2020

registered for the alleged offences under Sections 341, 323, 354, 504, 506 and 34 of the Indian Penal Code and Sections 3(i)(r)(s)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per prosecution case, the appellant abused the son of the informant and the appellant along with other co-accused persons assaulted the son of the informant with *lathi* and iron rod. When the family members of the informant tried to save him, they were also assaulted with the iron rod. The appellant and other co-accused persons profusely abused the informant. The occurrence took place in the background of some land dispute.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. The allegation of abuse by the informant taking caste name is not in public place and hence there will be no application of the provisions of the SC/ST(PoA) Act. There is no ingredient of Section 354 of the Indian Penal Code. Learned counsel further submits that the appellant and prosecution sides are having long standing land dispute. The appellant and the informant side are neighbours and land dispute is admitted on the face of the F.I.R. Charge sheet has

been submitted in this case and the appellant is in custody since 19.05.2022. The appellant has got clean antecedent.

Learned Special Public Prosecutor for the State as well as learned counsel appearing on behalf of the informant/respondent no. 2 vehemently oppose the prayer for bail of the appellant. Learned counsel appearing on behalf of the respondent no. 2 submits that there is specific allegation of assault against the appellant and other co-accused persons and their side was aggressor. Learned counsel further submits that the appellant and others took caste name of the informant and also assaulted them.

Perused the records.

Having regard to the submission made on behalf of the parties and considering the facts and circumstances of the case and further considering the 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 Sessions Judge III-cum-Special Judge (SC/ST Act), Bhagalpur in connection with Special SC/ST Case No. 217 of 2020 arising out of Sultanganj P.S. Case No. 113 of

2020, 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	16.12.2022
Transmission Date	16.12.2022