

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1434 of 2022

Arising Out of PS. Case No.-117 Year-2020 Thana- PATEPUR District- Vaishali

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Rahul Sahani @ Rahul Kumar S/o Jawahar Sahni @ Javahir Sahni Resident of Village- Chak Ansir, Nasir Chak, P.S.- Patepur, District- Vaishali at Hajipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Suman Kumar son of Vinod Sah resident of village- Kasturi Sarai, P.S.- Patepur, Distt- Vaishali

... .. Respondent/s

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with
CRIMINAL APPEAL (SJ) No. 2640 of 2022

Arising Out of PS. Case No.-117 Year-2020 Thana- PATEPUR District- Vaishali

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Md. Mokhtar Son of Md. Mansoor R/O Village- Chandpur Fatah, P.S.- Patepur, District- Vaishali, In Connection With Patepur P.S. 117/2020

... .. Appellant/s

Versus

1. The State of Bihar
2. Suman Kumar, Son of Vinod Sah, Resident of kasturi Sarai P.S- Patepur, Dist- Vaishali

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 1434 of 2022)

For the Appellant/s : Mr.Anish Chandra, Advocate

For the Respondent/s : Mr.Binay Krishna, Spl.PP

For the Informant : Mr. Avinash, Advocate

(In CRIMINAL APPEAL (SJ) No. 2640 of 2022)

For the Appellant/s : Mr.Kaushal Kishor, Advocate

For the Respondent/s : Mr.Binay Krishna, Spl.PP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 17-11-2022

Since both the applications arise out of from Patepur

P.S. Case No. 117 of 2020, as such, they have been taken up



together and are being disposed of by this common order.

Heard learned counsel for the appellants and learned counsel 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 by orders dated 11.03.2022 and 21.07.2022 passed by learned Special Judge (SC/ST), Vaishali at Hajipur in connection with Patepur P.S. Case No. 117 of 2020 registered for the alleged offences under Sections 393, 307 and 302 of the Indian Penal Code and Sections 3 (2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 27 of the Arms Act.

As per the prosecution case, three miscreants, riding a motorcycle, tried to snatch the bag of the informant containing Rs. 88,000/-. On shout being made by the informant, the villagers assembled on the scene. When the villagers tried to stop them, the miscreants fired upon them and one Mahesh Paswan became injured and he died later on. The name of the appellants transpired during investigation as the accused



persons who were also involved in the said occurrence.

It has been submitted on behalf of the appellants that the appellants are innocent and have been falsely implicated in this case. The appellants have not been apprehended from the spot and nothing incriminating has been recovered from their possession. Even during investigation, the police did not find any cogent material against them. The appellants have been named in this case merely on the basis of confessional statement of the co-accused persons and except for this confessional statement there is nothing against the appellants. The other co-accused persons have been granted bail vide order dated 13.10.2022 passed in Cr. Appeal (SJ) No. 1928 of 2022 and order dated 02.11.2022 passed in Cr. Appeal (SJ) No. 2418 of 2022, respectively. The case of the appellants is similarly placed with the other co-accused persons. The appellants are in custody since 25.01.2022 and 20.05.2022, respectively. Charge-sheet has been submitted.

Learned Spl.PP and the learned counsel for the informant oppose the submission made on behalf of the appellants. Learned counsel for the informant submits that the appellants are having criminal antecedent and are habitual offenders.



Having regard to the facts and circumstances and considering the submission made on behalf of the parties and also considering the grant of bail to similarly placed co-accused persons and the submission of charge-sheet against the appellants, they are 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), Vaishali at Hajipur in connection with Patepur P.S. Case No. 117 of 2020, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the appellants.
- (ii) The appellants 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 appellants will be liable to be cancelled by the court concerned.

Accordingly, the impugned orders are set aside and both the appeals are allowed.

(Arun Kumar Jha, J)

Rajnish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.11.2022
Transmission Date	18.11.2022

