

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2727 of 2022

Arising Out of PS. Case No.-94 Year-2022 Thana- MOTIPUR District- Muzaffarpur

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1. Vidyanand Rai @ Dhorai Rai Son Of Late Sakal Rai R/O Village- Paharchak, P.S.- Motipur, District- Muzaffarpur.
 2. Ganesh Sahni Son Of Khublal Sahni R/O Village- Paharchak, P.S.- Motipur, District- Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kabutari Devi Wife Of Late Lalmohan Manjhi R/O Village- Paharchak, P.S.- Motipur, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate Ms. Vaishnavi Singh, Adv
For the Respondent/s	:	Mr. Sanjay Kumar @ S.K., Advocate Ms. Anjana, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
Date : 08-12-2022

Heard learned counsel for the appellants, learned counsel for the respondent No.2 as well as learned counsel for the State.

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 14.06.2022 passed by learned Additional District and Sessions Judge-1st-cum-Special Court of SC/ST Act,



Muzaffarpur, in connection with Motipur P.S. Case No. 94 of 2022 registered for the alleged offences under Sections 147, 149, 341, 323, 307, 302 of the Indian Penal Code and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the informant gave written report that her husband Lal Mohan Manjhi killed one Bachcha Kishore Dubey of the same village by blow of *Gadasha*. In retaliation thereof, about 200 villagers brutally assaulted the husband of the informant killing him on the spot. The name of the appellants transpired during investigation as the persons involved in committing the murder of husband of the informant.

Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this case. The appellants are co-villagers of the informant but informant has not named them. During investigation, the son of the deceased was examined who stated that he heard rumour that the appellants were involved in killing his father along with other co-accused persons. Though this witness is not an eye witness, only on the basis of hearsay statement, the appellants have been made accused and thereafter the confessional



statement of appellant No.1 was extracted but it has got no legal sanctity. Furthermore, the allegation of assault by 150-200 persons is falsified as per postmortem report, which shows only two lacerated wound and one bruise over the person of the deceased. The appellants are in custody since 12.03.2022 and charge-sheet has been submitted in this case.

Learned Special P.P. as well as learned counsel for the respondent No.2 oppose the prayer for bail. Learned counsel for the respondent No.2 submits that the witnesses examined during investigation have named the appellants for being involved in the murder of deceased husband of the informant.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that the allegation against the appellants appears to be general, vague and omnibus and no specific overt act attributed upon them and further considering the period of custody of the appellants along with submission of charge sheet, they are directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-1st-cum-Special Court of SC/ST Act, Muzaffarpur, in connection with Motipur P.S. Case No. 94 of



2022, 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 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

