

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2893 of 2022

Arising Out of PS. Case No.-112 Year-2020 Thana- IMAMGANJ District- Gaya

=====

Krishna Yadav Son of Late Rampal Yadav Resident of Village - Loknachak,
P.S. Imamganj, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sharda Devi Wife of Rakesh Kumar Resident of Village - Loknachak, P.S.
Imamganj, District - Gaya.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Md. Javed Jafar Khan, Advocate
For the State	:	Mr.Sadanand Paswan, Spl. PP
For the Respondent/s	:	Mr. Anil Kumar Sinha, Adovcate
		Mr. Sudhir Kumar Sinha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-12-2022

Heard learned counsel for the appellant and learned
counsel for the State as well as learned counsel for the
informant.

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 28.06.2022 passed by learned Exclusive Special
Judge- (SC/ST) Act, Gaya in connection with Imamganj P.S.
Case No. 112 of 2020 corresponding I.A. No. 03/2022

registered for the alleged offences under Sections 147, 148, 149, 341, 323, 324, 325 and 307 of the Indian Penal Code and Section 3(i)(r)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, in the background of land dispute, the appellant and other co-accused persons armed with *chopper*, *khanti*, *lathi*, rod and *tangi* came to the house of the informant and tried to capture their land. When the respondent and the informant objected, this appellant hurled caste abuses and ordered assault. The appellant hit on the head of the husband of the informant with *tangi* causing injury on the head. Other co-accused persons also assaulted the husband of the informant with rod and *tangi* causing fracture on his jaw. Other persons of the informant side also were also assaulted.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. There is delay of two days in lodging of the FIR and there is no explanation for this delay. There is general, vague and omnibus allegations against the accused persons. The injury report does not support the prosecution case that the appellant assaulted the husband of the informant with *tangi* as injuries caused to him appears to be simple in nature caused by hard

blunt stick. Injury report was obtained prior to lodging of the FIR so its credibility is doubtful. No offence under Section 307 I.P.C. is made out against the appellant and further no offence under provisions of SC/ST, Act is made out. The appellant is in custody since 06.05.2022 and charge-sheet has been submitted. The appellant has got clean antecedent.

Learned counsel appearing on behalf of the informant/ respondent no. 2 vehemently opposes the submission made on behalf of the appellant. Learned counsel further submits that specific allegation against this appellant is that he ordered to assault and also gave himself a *tangi* blow on the head of the husband of the informant. All the witnesses in the case diary have supported the prosecution case.

Perused the records.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties and considering the allegation which is not supported by injury report and also considering the clean antecedent of the appellant along with the period of custody of the appellant and submission of charge sheet, he 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

Exclusive Special Judge (SC/ST) Act, Gaya in connection with
Imamganj P.S. Case No. 112 of 2020 corresponding I.A. No.
03/2022, 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 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 is allowed.

(Arun Kumar Jha, J)

himanshu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2022
Transmission Date	13.12.2022