

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3814 of 2021

Arising Out of PS. Case No.-83 Year-2021 Thana- BABUBARHI District- Madhubani

Kumal Thakur @ Kumaldeo Thakur, Son of Bhola Thakur, Resident of
Village Ghonghor, P.S. Baboo Barhi, District Madhubani.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 3929 of 2021

Arising Out of PS. Case No.-83 Year-2021 Thana- BABUBARHI District- Madhubani

Suresh Sharma, Son of Late Upendra Sharma, R/o Village Ghonghor, P.S.
Baboo Barhi, District Madhubani.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 3814 of 2021)

For the Appellant/s : Mr. Ram Bilash Roy Raman

For the Respondent/s : Mr. Binay Krishna

(In CRIMINAL APPEAL (SJ) No. 3929 of 2021)

For the Appellant/s : Mr. Ram Bilash Roy Raman

For the Respondent/s : Mr. Binay Krishna

Mr. Subhash Kumar Jha

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 10-01-2022 Heard learned counsel for the appellants, learned
Special P.P. for the State as well as learned counsel appearing on
behalf of the informant through virtual court proceedings.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act, 1989 (hereinafter referred to as 'the SC/ST Act') against the



refusal of prayer of bail vide order dated 04.08.2021, passed by learned 1st Additional Sessions Judge cum Special Judge, Madhubani in connection with Babu Barhi P.S. Case No.83 of 2021, registered under Sections 302/34 of the Indian Penal Code and 3(i)(r), 3(2)(va) of the SC/ST Act.

The appellants are said to have assaulted the son of the informant resulting into his death.

Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. There is general and omnibus allegation against the appellants. It is submitted that there is no eye witness of the occurrence. Merely on suspicion, the appellants have been made accused in this case. Appellant Kumal Thakur @ Kumaldeo Thakur is in custody since 17.06.2021 and appellant Suresh Sharma is in custody since 22.04.2021. It is further submitted that the appellants have got no criminal antecedent as stated in para 3 of the memo of appeal.

Learned Special P.P. for the State as well as learned counsel for the informant opposed the prayer for bail and submitted that there is specific allegation that firstly the son of the informant was brought to the house of one of the appellants and thereafter the accused persons assaulted him resulting into his death.



Having heard the parties at length and from perusal of the case diary, it appears that there is no eye witness of the occurrence. It also appears that some witnesses have supported the prosecution case and some have not supported the prosecution case.

Having considered the facts aforesaid, let appellants, above named, be enlarged on bail on furnishing bail bonds of Rs.25,000/- (rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge cum Special Judge, Madhubani in connection with Babu Barhi P.S. Case No.83 of 2021, subject to the conditions:

(1) That one of the bailors shall be a close relative of the appellants, who shall give an affidavit disclosing genealogy as to how he is related with the appellants. He shall also undertake to inform the court if there is any change in the address of the appellants.

(2) That the appellants will be well represented on each and every date fixed in the case and if they fail to do so on two consecutive dates, their bail bonds shall be liable to be cancelled.

(3) That the appellants will mark their attendance in the local police station in the first week of every month till conclusion of trial, failing which the prosecution will be at liberty to move cancellation of their bail bonds.



(4) That the bailors shall also state on affidavit that they will inform the court concerned, if the appellants are implicated in any other case of similar nature after their release in the present case and thereafter the court below will be at liberty to initiate proceeding for cancellation of bail on the ground of misuse.

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

(Anjani Kumar Sharan, J.)

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