

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2742 of 2022

Arising Out of PS. Case No.-162 Year-2022 Thana- MUFFASIL District- Aurangabad

Dudheshar Yadav @ Dudheswar Yadav, Son of Late Bechan Yadav, Resident
of Village - Ora, P.S.- Aurangabad Mufassil, District - Aurangabad (Bihar).

... .. Appellant/s

Versus

1. The State of Bihar
2. Jitendra Rajak Son of Bhagwan Rajak Resident of Village - Ora, P.S.-
Aurangabad Mufassil, District - Aurangabad (Bihar).

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms.Leelawati Kumari, Advocate Mr. Aman Vishal, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan,APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 03-11-2022

Heard learned counsel for the appellant and learned APP
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
12.07.2022 passed by the learned 1st Additional District and
Sessions Judge (SC/ST), Aurangabad in B.P. No. 627/2022 in
connection with Aurangabad Mufassil P.S. Case No. 162 of 2022
registered for the alleged offences under Sections 341, 323,
325,307, 302 504, 506 and 34 of the Indian Penal Code and



Sections 3(1) (r), 3(1)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per prosecution case, the appellant and other co-accused abused and assaulted the informant. In the assault of the appellant with an iron pipe, the right hand of the informant got fractured. When the mother of the informant tried to save him, co-accused hit her on her head with an iron rod causing fracture of head. When the mother of the informant was taken to the hospital, she was declared brought dead. The brother of the informant also received some injuries.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. No occurrence as alleged has ever taken place. There is no allegation of assault against the deceased by this appellant and this allegation is specific against co-accused and even in the post mortem report of the deceased, opinion for cause of death has been reserved till the report of the viscera came in. There is no independent witness examined during investigation by the police. Nothing incriminating has been recovered from the possession of the petitioner or at his instance. The present case is counter blast of Aurangabad Mufassil P.S. Case No. 163 of 2022 registered for offences under section 323, 324, 341, 427, 504 and 506 of the Indian Penal Code against the informant and his family members



and it was lodged by the appellant. The informant and the appellant are next door neighbours and there has been ongoing land dispute between the parties and for this reason, the appellant has been falsely implicated in this case. Charge sheet has been submitted in this case and the appellant is in custody since 24.05.2022. The appellant has got clean antecedent.

Learned Special Public Prosecutor as well as learned counsel appearing on behalf of the respondent no. 2 oppose the submission made on behalf of the appellant. Learned counsel for the respondent no. 2 submits that there is specific allegation against the appellant for assaulting the informant with iron pipe.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and further considering the nature of allegation against this appellant which is not for causing any injury to the deceased and also considering his clean antecedent along with submission of charge sheet and his period of custody, 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 1st Additional District and Sessions Judge (SC/ST), Aurangabad in B.P. No. 627/2022 in connection with Aurangabad Mufassil P.S. Case No. 162 of 2022, 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	05.11.2022
Transmission Date	05.11.2022

