

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2709 of 2022

Arising Out of PS. Case No.-31 Year-2021 Thana- SC/ST District- Bhagalpur

Subodh Yadav Son of Late Karu Yadav, Resident of Mohalla- Parbatti, P.S-
University, Dist- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Urmila Devi Wife of Late Devi Mistri, R/v- Parbatti, Ward No. 13, P.S-
University Dist- Bhagalpur.

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 3038 of 2022

Arising Out of PS. Case No.-31 Year-2021 Thana- SC/ST District- Bhagalpur

Prakash Yadav Son of Late Karu Yadav, R/o Village- Parratti, Mahavir-Sthan,
Ward No.-13, P.S.- Vishwavidayalay, District- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Urmila Devi Wife of Late Devi Mistri, R/o Village- Parbatti Ward No.13,
P.S.- Vishwavidayalay, District- Bhagalpur.

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 2709 of 2022)

For the Appellant/s : Mr. Alok Kumar Choudhary, Adv.

For the Respondent/s : Mr. Sadanand Paswan, Spl. PP.

(In CRIMINAL APPEAL (SJ) No. 3038 of 2022)

For the Appellant/s : Mr. Davendra Kumar Pandey, Adv.

For the Respondent/s : Mr. Sadanand Paswan, Spl. PP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 07-12-2022

Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the appellants and learned

Special Public Prosecutor for the State as well as learned counsel for the informant.

The present appeal has been preferred 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 02.07.2022 for the alleged offence under Sections 147, 149, 341, 323, 324, 325, 307, 354, 427, 504 & 506 of I.P.C. read with Sections 3(i)(r)(s)/3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per prosecution case, the allegation has been made against 9 accused persons who belong to same family that they all in furtherance of common intention to kill the informant party and her family members abuses and attacked and have broken the wall and put their cow as well as tried to construct a hut, upon oppose by the grand-daughter of informant this occurrence took place, in which general and omnibus allegation has been made for assault without making any specific one. They have also threaten to make out different cases, due to which they shall continue in jail.

Learned counsel for the appellants submits that the present dispute is result of a land dispute and not due to criminal

intent. He further submits that by the content of F.I.R. itself, it transpires that a case has been filed before the DCLR and the matter is pending before the Court. He also submits that the appellant of Cr. Appeal (SJ) No. 2709 of 2022 is in custody since 02.04.2022, charge sheet has already been filed in this case and there is one case pending against him, in which he is on bail. He further submits that for the same date and place of occurrence there is case and counter case from both the sides.

Learned counsel for the appellant of Cr. Appeal (SJ) No. 3038 of 2022 submits that appellant is in custody since 14.02.2022, charge sheet has already been filed in this case and there is one case pending against him, in which he is on bail.

Learned Special Public Prosecutor opposes the prayer for bail.

Learned counsel for the informant/victim categorically opposes the prayer for bail and submits that the accused persons are muscleman and there is a continuous threat from their side to commit more crime and to remove from the place. He further submits that if bail shall be granted to the appellants, then the pressure shall be created from the accused either for not to pursue and, therefore, bail may be rejected.

In response thereof, learned counsel for the appellants

submits that appellants are ready to fulfill all the conditions whatsoever shall be imposed upon them and they are ready to file an affidavit that there shall be no threat from their side upon the life of informant and his family in future.

In the present facts and circumstances of this case and the submissions made above, let the appellants above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) each with two sureties of the like amount each to the satisfaction of learned 3rd Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhagalpur in connection with S.T. No.299 of 2022 arising out of Bhagalpur SC/ST P.S. Case No. 31 of 2021, subject to the conditions as laid down under Section 437(3) of Cr.P.C.

Both the appellants shall file a separate affidavit that initiation of criminal act shall not take place from their part in future.

Accordingly, the impugned order dated 02.07.2022 passed by learned 3rd Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhagalpur in connection with S.T. No.299 of 2022 arising out of Bhagalpur SC/ST P.S. Case No. 31 of 2021 lodged under Sections 147, 149, 341, 323, 324, 325, 307, 354, 427, 504 & 506 of I.P.C. read with Sections 3(i)(r)(s)/3(2)(v) of

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is set-aside and the present Cr. Appeal (SJ) stands allowed.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	