

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3049 of 2022**

Arising Out of PS. Case No.-94 Year-2020 Thana- KHAJAULI District- Madhubani

Mahendra Paswan, S/O Bulak Paswan, Resident of Village- Chatra, P.S.-
Khajauli, District- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar
2. Lalan Paswan, S/O Late Jagdish Paswan, Resident of Village- Chatra, P.S.-
Khajauli, District- Madhubani.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ravindra Kumar Singh, Advocate
For the Respondent/s : Mrs.Usha Kumari 1,Spl.P.P

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 13-10-2022

Learned counsel for the appellants submits that the appellant is himself a person of SC category and so there will be no application of provisions of SC/ST Act against him in this case and, as such, there is no requirement for issuance of notice to the informant/respondent no. 2.

Heard learned counsel for the appellant and learned Spl.PP 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 06.08.2022 passed by the learned Additional Sessions Judge-I-cum-Special Judge, Madhubani, in connection with Khajaluli P.S. Case No. 94 of 2020, registered for the alleged offences under Sections 147,148, 149, 341, 323, 324, 307, 302, 452, 504, 506 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(i) (r) (s)/ 3 (2) (V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution case, the FIR named co-accused persons, who were variously armed, entered into the house of the informant and fired upon and assaulted the informant and his family members. During the course of treatment, the father of the informant died in the hospital. The name of the appellant transpired during investigation as one of the accused persons who was also involved in the aforesaid occurrence.

Learned counsel for the appellant submits that the appellant is not named in the FIR and he has been falsely implicated in this case. The informant stated himself to be an eye-witness but he did not name this appellant. Learned counsel further submits that the appellant has instituted Khajauli P.S. Case No. 93 of 2020 for offences under Sections 341, 323, 354, 504, 506 and 34 of the IPC against the informant and his family



members and in retaliation thereof, the present counter case has been instituted by the informant after one day of lodging of the FIR by the appellant. Similarly placed co-accused person, who was not named in the FIR, Ramesh Paswan, has been granted bail by a Coordinate Bench of this Court vide order dated 02.03.2021 passed in Cr. Appeal (SJ) No. 571 of 2021. The appellant is a 72 years old person and is in custody since 20.05.2022. The charge sheet has been submitted.

Learned Spl.P.P. opposes the prayer for bail.

Having regard to the facts and circumstances and the submission made on behalf of the parties and considering the general and non-specific nature of allegation against the petitioner who was not named in the FIR and further considering the submission of charge sheet along with his clean antecedent, 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 Additional Sessions Judge-I-cum-Special Judge, Madhubani, in connection with Khajauli P.S. Case No. 94 of 2020, 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)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.10.2022
Transmission Date	14.10.2022

