

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4317 of 2021

Arising Out of PS. Case No.-43 Year-2021 Thana- SC/ST District- Saran

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1. Nagendra Sah @ Nagendra Mahto S/o Late Gulab Mahto Resident of Village - Molnapur, P.S. - Bheldi, District - Saran.
 2. Santosh Sah @ Santosh Kumar Sah S/o Nagendra Sah Resident of Village - Molnapur, P.S. - Bheldi, District - Saran.
 3. Pramod Sah S/o Mr. Birendra Sah Resident of Village - Molnapur, P.S. - Bheldi, District - Saran.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Chandan Kumar Ram Son of Chulhai Ram Resident of village- Molnapur, P.S.- Bheldi, District- Saran.

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Udbhav, Advocate
For the State	:	Mr. Sadanand Paswan, Special P.P.
For the Informant	:	Ms. Anu Priyadarshni, Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 19-05-2022 Heard learned counsel for the appellants, learned Special Public Prosecutor for the State as well as learned counsel appearing on behalf of the informant.

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 29.09.2021, passed by learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in connection with Saran SC/ST P.S. Case No.43 of 2021, registered under Sections



147, 149, 341, 323, 324, 307 and 504 of the Indian Penal Code and Sections 3 (i)(r)(s) of the SC/ST Act.

Appellants along with other co-accused persons are said to have abused the informant and his family members by naming their caste. Pramod Sah (appellant no.3) and Santosh Sah (appellant no.2) along with other co-accused persons assaulted the uncle of the informant by means of rod, *farsa* and *Dao* causing injuries to him. Nagendra Sah (appellant no.1) along with other co-accused persons are said to have assaulted Kundan Kumar by means of rod, lathi and Dao causing serious injuries to him.

Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. It is further submitted that there is general and omnibus allegation against the appellants. It is submitted that similarly situated other co-accused persons, namely, Ranjeet Kumar Dwivedi and Pankaj Sah have already been granted bail by this Court and by a co-ordinate Bench of this Court. It is also submitted that the appellants have got no criminal antecedent as stated in paragraph-3 of the memo of appeal. Appellants No.1 and 2 are in custody since 13.09.2021 and appellant no.3 is in custody since 11.09.2021.



Learned counsel for the appellants has filed a supplementary affidavit stating therein that initially the present case was registered under Section 307 and other allied Sections of the Indian Penal Code as well as Sections 3(i)(r)(s) of the SC/ST Act, but subsequently the injured deceased died and Section 302 of the Indian Penal Code was also added.

Learned Special P.P. for the State as well as learned counsel for the informant opposed the prayer for bail of the appellants and submitted that there is specific allegation against them.

Taking into consideration the fact that similarly situated other co-accused persons have already been enlarged on bail, let appellants, above named, be released 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 Special Judge, SC/ST Act, Saran at Chapra in connection with Saran SC/ST P.S. Case No.43 of 2021, subject to the following conditions:

(1) That one of the bailors will be a close relative of the appellants, who will give an affidavit giving genealogy as to how he is related with the appellants. He will 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 for 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 order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J.)

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