

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3321 of 2022

Arising Out of PS. Case No.-28 Year-2022 Thana- SALAKHUA District- Saharsa

Md. Dilbar, Son of Md. Arsad, R/o village - Kanjari, Ward No.- 01, P.S.-
Beldour, District - Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kedar Sada, Son of Dolo Sada, R/o village - Ram Pokhar, Ward No.- 15,
P.S.- Salkhua (Banmaitahri), District - Saharsa.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Madhav Jha, Advocate

For the Respondent/s : Mr.Binay Krishna, Spl.PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 22-12-2022

Heard learned counsel for the appellant and learned
Spl.PP for the State.

Perusal of office note shows notice sent through
ordinary process has been validly served upon the respondent
no.2/ informant. But no one is present on behalf of the
respondent no.2 and the matter has been put up for hearing.

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 by
order dated 26.07.2022 passed by the learned Additional



Sessions Judge-3rd, Saharsa-cum-Special Judge SC/ST (POA) Act in connection with Special Case No. 41 of 2022 arising out of Salkhua (Banmaitahri O.P.) P.S. Case No. 28 of 2022, registered for the alleged offences under Sections 341, 323 and 307/34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3 (1)(r)(s) of the Scheduled Castes and Scheduled Tribes (POA) Act.

As per the prosecution case, the appellant and other co-accused persons came to the house of the informant/respondent no.2 and hurling caste abuses to the informant and the female inmates of his house, they fired upon the informant who was saved by whisker.

The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. The allegation against the appellant is general and omnibus along with other co-accused persons. There is no specific allegation against the appellant that he fired upon the informant or hurled abuses against him or his family members. Learned counsel further submits that the appellant was not even present at the spot at the time and date of occurrence. There is land dispute between the parties and for this reason the informant has filed case to harass this appellant. The appellant is



in custody since 15.03.2022 and the charge sheet has been submitted in this case.

Learned Spl.PP opposes the prayer for bail submitting that the appellant and other co-accused persons fired upon the informant and his family members.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that there is no specific allegation against the appellant for any overt act towards the offence as alleged and further considering the period of custody of the appellant along with submission of charge sheet against him, 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-3rd, Saharsa-cum-Special Judge SC/ST(POA) Act in connection with Special Case No. 41 of 2022 arising out of Salkhua P.S. Case No. 28 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 is allowed.

(Arun Kumar Jha, J)

balmukund/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.12.2022
Transmission Date	23.12.2022

