

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4743 of 2021**

Arising Out of PS. Case No.-335 Year-2020 Thana- DUMRA District- Sitamarhi

Madan Mishra, S/o Late Bindeshwar Mishra, R/o village- Beli, P.S.- Dumra,
District- Sitamarhi

... .. Appellant/s

Versus

1. The State of Bihar
2. Sukhali Das, son of Late Asharfi Das, Resident of village- Beli, P.S.- Dumra,
District- Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pushpendra Kumar Singh, Advocate Ms. Divya Bharti, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.

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

Date : 10-11-2022

Heard learned counsel for the appellant and learned
Special P.P. for the State.

Office notes shows that undelivered registered cover has
been received. The noting on the registered cover further shows
that the informant/respondent No.2 refused to accept the notice,
hence, he is declared to be duly served and the matter is 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
17.11.2021 passed by the learned 6th Additional Sessions Judge,



Sitamarhi in connection with Dumra P.S. Case No. 335 of 2020, registered for the alleged offences under Sections 341, 323, 376, 511/34 of the Indian Penal Code, Sections 3 (1)(r)(s) of the Scheduled Castes and Scheduled Tribes (POA) Act and Section 8 of the POCSO Act.

As per the prosecution case, while the minor granddaughter of the informant aged about 12 years had been returning home after giving him food, the appellant and his co-accused brother caught hold of her and forcibly took her towards the bank of river Lakhandei with intention to commit rape with her. On shout being made, the informant and his wife reached there but they were also assaulted by the appellant and his co-accused brother. Meanwhile, the son and daughter-in-law of the informant also reached the spot and they were also assaulted.

The 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. The appellant and the co-accused have been falsely implicated at the instance of one Ram Padarath Mishra, Advocate. He is the agnate of the appellant and there is land dispute between the parties and informant of this case has been working as a labourer in the fields of said Ram Padarath Mishra. This person has also registered two other cases against the appellant by falsely implicating him. The learned



counsel further submits that for the occurrence dated 15.09.2020, the first information report was registered on 11.10.2020, i.e., after delay of 26 days without any reasonable explanation to explain this delay. The learned counsel for the appellant further submits that the proceedings U/s107 of Cr.P.C. is also going on between the appellant and aforesaid Ram Padarath Mishra. Moreover, the cattle of the informant had destroyed the paddy crops of the appellant and when the appellant asked him to compensate, the informant lodged this false case on saying of said Ram Padarat Mishra. Learned counsel further submits that the appellant is in custody since 18.09.2021 and charge-sheet has been submitted in this case. The similarly placed co-accused Rajesh Mishra has been granted bail by a Co-ordinate Bench of this Court vide order dated 21.09.2021 passed in Criminal Appeal (S.J.) No.3151 of 2021.

Learned Spl. PP opposes the prayer for bail.

Having regard to the facts and circumstances and considering the fact about delayed lodging of F.I.R. and the probability of false implication being strong and further considering grant of bail to similarly placed co-accused person and also considering the period of his custody and submission of charge sheet, 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 6th Additional Sessions Judge, Sitamarhi in connection with Dumra P.S. Case No. 335 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 is allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10-11-2022
Transmission Date	10-11-2022

