

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4605 of 2021

Arising Out of PS. Case No.-115 Year-2021 Thana- BALIYA District- Begusarai

Rajkaran Yadav, Son of Tileshwar Yadav @ Doman @ Nandkishore Yadav,
Resident of Village- Ahok Ghat, P.S.- Sahebpur Kamal, District- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Santosh Kumar Chaudhary Son of Baidyanath Chaudhary Resident of Village- Masurchak, P.S.- Balia, District- Begusarai.

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 4822 of 2021

Arising Out of PS. Case No.-115 Year-2021 Thana- BALIYA District- Begusarai

Md. Aftab, Son of Md. Mahbood @ Md. Mahmud Resident of Village -
Lakhminian, P.S. - Ballia, District - Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mantosh Kumar Chaudhary Son of Baidyanath Chaudhary R/v Mansoorchak, P.S.- Balia, Dist- Begusarai.

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 4605 of 2021)

For the Appellant/s : Mr.Ranjeet Kumar Singh

For the Respondent/s : Mr.Usha Kumari 1

(In CRIMINAL APPEAL (SJ) No. 4822 of 2021)

For the Appellant/s : Mr.Nakul Kumar Jamuar

For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 01-09-2022

Since both the aforesaid appeals arise out from
Balia P.S. Case No. 115 of 2021, as such, they have been heard
together and are being disposed of by this common judgment.



Heard learned counsel for the appellants and learned counsel for the State.

Though Vakalatnama has been filed on behalf of respondent no.2/informant, but none is present on his behalf.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

Both the appeals under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have been filed against the refusal of prayer for bail by orders dated 29.09.2021 and 02.11.2021, respectively passed by the learned Special Judge, SC/ST (POA) Act, Begusarai in connection with Balia P.S. Case No. 115 of 2021, registered under Sections 341, 323, 307, 120(B)/34 the Indian Penal Code, Section 27 of the Arms Act and Sections 3 (i) (r) (s) of SC/ST (POA) Act.

As per the prosecution case, the appellants and other co-accused persons called out the informant through the co-accused Lagma Khatoon and assaulted him with an intention to cause his death. They left him unconscious treating him to be dead.

Learned counsel for the appellants has submitted



that the appellants are innocent and have been falsely implicated in this case. There is general and omnibus allegation against the appellants. No offence under Section 307 IPC is made out against the appellants since no such injury has been found which could be said to be threatening to life and there was no intervening circumstance to interrupt the assault by these appellants. It is also not believable that the appellants and other co-accused persons were having firearm and still they did not use the same. Moreover, for the alleged occurrence of 13.04.2021, the fardbeyan has been recorded on 18.04.2021 and the FIR was registered belatedly on 04.05.2021 and there is no explanation for the delay. The matter has been compromised between the parties. The co-accused Dharmendra Pandit has been granted bail vide order dated 08.10.2021 passed in Cr. Appeal (SJ) No. 4065 of 2021 by a Coordinate Bench of this Court. The case of the appellants is similarly placed. The appellant Rajkaran Yadav is in custody since 23.09.2021, whereas the appellant Md. Aftab is in custody since 13.09.2021. The charge sheet has been submitted.

Learned Special PP as well as the informant has opposed the prayer for bail submitting that the appellants and other co-accused persons brutally assaulted the informant.



Having regard to the submissions made here-in-above and considering the nature of allegation and background as it appears from the fardbeyan and further considering the fact that no specific overt act has been attributed to any of the appellants and also considering the submission of charge sheet along with period of custody and antecedents of the appellants, let the appellants, above named, be released on bail, on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST (POA) Act, Begusarai in connection with Balia P.S. Case No. 115 of 2021, subject to the following conditions:

- (i) One of the bailors will be a close relative of the appellants.
- (ii) The appellants 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 appellants will be liable to be cancelled by the court concerned.



Accordingly, the impugned orders dated 29.09.2021 and 02.11.2021 are set aside and both the appeals are allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.09.2022
Transmission Date	01.09.2022

