IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4820 of 2021

Arising Out of PS. Case No.-56 Year-2021 Thana- GHOGHARDIHA District- Madhubani

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LAKSHMAN MANDAL Son of Sinheshwar Mandal Resident of Anand Nagar, Ghoghardiha, Ward No.11, P.S.- Ghoghardiha, District- Madhubani.

... ... Appellant/s

Versus

1. The State of Bihar Bihar
2. Umesh Paswan Son of Devendra Paswan Resident of Village- Ghoghardiha, Ward No.11, P.S.- Ghoghardiha, District- Madhubani.

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr.Ravindra Kumar Singh
For the Respondent/s : Mr.Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL ORDER

3 21-07-2022 Heard learned counsel for the appellant and learned Special Public Prosecutor for the State.

The appellant has filed the instant appeal against the order dated 19.06.2021 passed in Ghoghardiha P.S. Case No. 56 of 2021, G.R. no. 44 of 2021 by the learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani whereby and whereunder the prayer for bail of the appellant in connection with Ghoghardiha P.S. Case No. 56 of 2021, G.R. no. 44 of 2021 registered under Sections 341, 323, 324, 307, 379, 504, 506, 34 of the Indian Penal Code and Sections 3(i) (r)(s)/ 3(2) (Va) of the SC & ST (POA) Act was rejected.

As per allegation in the FIR, the appellant assaulted

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the informant by means of Dabia on his neck with intention to kill but anyhow the informant saved himself by his hand due to which informant sustained injury on the finger. It is further alleged that appellant again assaulted on informant's leg and other parts of the body from the back portion of Dabia causing injury to informant. It is also alleged that appellant and other accused abused the informant by uttering caste name and they also took away Rs. 1000/- from informant's pocket.

It is submitted by learned counsel for the appellant that appellant is in custody since 13.04.2021 and bears no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that injuries sustained by the informant are not on the vital parts of the body and all the injuries are simple in nature. Cognizance has already been taken under Sections 341, 323, 324, 504 of the IPC and Sections 3(i)(r)(s)/ 3(2)(Va) of the SC & ST Act which falsifies the whole allegation of the informant against the appellant.

The appeal is opposed by learned Spl. P.P. for the State.

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of

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appellant, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, injuries are simple in nature and same are not on vital parts of the body and also taking into consideration the material available on record, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated 19.06.2021 passed in Ghoghardiha P.S. Case No. 56 of 2021, G.R. no. 44 of 2021 by the learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani is set aside.

The appellant is directed to be enlarged on bail in connection with Ghoghardiha P.S. Case No. 56 of 2021, G.R. no. 44 of 2021 on furnishing bail bond of Rs.10,000/ (Rupees Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

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(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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