

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.95 of 2022

Arising Out of PS. Case No.-402 Year-2020 Thana- SAKRA District- Muzaffarpur

Jagnath Sah @ Jagarnath Sah, Son of Late Ramphal Sah, R/O Village-Marwan @ Narayanpur Sapahi, P.S.- Sakra, Dist.- Muzaffarpur, Bihar

... .. Appellant/s

Versus

1. The State Of Bihar
2. Bindu Devi, wife of Devendra Thakur, Resident of Village-Marwan, P.S.- Sakra, District-Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Prabhat Kumar Singh, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-09-2022

Heard learned counsel for the appellant and learned Spl. PP for the State. However, none appears on behalf of the respondent no.2.

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.

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 vide order dated 03.12.2021 passed by the learned Additional Sessions Judge-III-cum-Special Judge, SC/ST (POA) Act, Muzaffarpur in connection with Sakra P.S. Case No. 402 of



2020 registered for the alleged offences under Sections 147, 148, 149, 329, 307, 394 (b) of the Indian Penal Code and Section 3(2) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution case, the accused Munchun Devi used to abuse the informant taking her caste name and when objected by the informant, the petitioner and other co-accused persons further abused her and her family members and assaulted them with *lathi* and iron rod.

Learned counsel for the appellant submits that the appellant is innocent and has been implicated in this case. For an occurrence of 22.08.2020, the FIR has been registered on 29.08.2022 and this FIR has been sent to the court concerned after further delay of two days i.e. on 31.08.2020. It shows that the prosecution story is false and fabricated and the case has been lodged after due deliberation. The entire family members of the petitioner has been made accused in this case. The informant and the co-accused Munchun Devi reside within the same village and are neighbours, whereas this appellant resides in some other village. There is dispute over land between the informant and the co-accused Munchun Devi and due to this dispute, the appellant has been falsely implicated in this case.



The appellant is aged about 58 years and suffering from paralysis and was not present at the place of occurrence on the date when the alleged occurrence took place. Since the appellant is brother of Munchun Devi, he has been made an accused in this case. The appellant is in custody since 28.11.2021 and the charge sheet has been submitted.

Learned Spl.P.P. opposes the prayer for bail of the appellant submitting that there is specific allegation against the appellant that he assaulted Ravinder Thakur and fractured his hands. The appellant is not residing far away from the place of occurrence. Learned Spl.P.P. further submits that after investigation, the police has found the case true against the appellant.

Perused the records.

Having regard to the facts and circumstances and the submission made on behalf of the parties and considering the fact that the appellant is stated to be the resident of some other place and is not the resident of village of the informant and this fact in itself shows false implication cannot be ruled out and further considering the delay in lodging of the FIR and submission of charge sheet along with his period of custody, 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-III-cum-Special Judge, SC/ST POA) Act, Muzaffarpur, in connection with Sakra P.S. Case No. 402 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 stands allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	9.09.2022
Transmission Date	9.09.2022

