

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.617 of 2022

Arising Out of PS. Case No.-412 Year-2019 Thana- BARHARA District- Bhojpur

Thakur Yadav Son Of Lal Babu Yadav Resident Of Village And Post Office-
Saraiya, P.S.- Barhara, District- Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Bhola Nut Yamuna Nut Resident of village- Saraiya, P.S.- Krishnagarh O.P.
Dist- Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Abhay Kumar Singh
For the Informant	:	Mr. Madanjeet Kumar
For the State	:	Ms. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 16-03-2023 Heard learned counsel for the appellant,

informant and learned Special P.P for the State.

The appellant has challenged the order dated 14.07.2021 passed by learned 1st Additional Sessions Judge, Ara in connection with Barahara (Krishnagarh) P.S. Case No. 412 of 2019 instituted for the offences punishable under Sections 363, 365 of the Indian Penal Code and Sections 3(2)(va) of the SC/ST(Prevention of Atrocities) Act, whereby his prayer for being released on bail has been rejected.



The prosecution case as per F.I.R. is that the son of the informant went missing on the night of 12.11.2019. He lodged an First Information Report in this regard on 14.11.2019 wherein he expressed his apprehension that some unknown persons had taken away his son by alluring him.

It is submitted by learned counsel for the appellant that appellant is innocent and he has falsely been implicated in this case. The appellant is not named in the F.I.R. It is further submitted that in the course of investigation the appellant was taken into custody on 13.03.2020. The appellant moved for grant of regular bail in B.P. No. 924 of 2020 in the Court of learned 1st Additional Sessions Judge, Bhojpur at Ara in connection with SC/ST Case No. 28/2020 arising out Barhara(Krishnagar) P.S. Case No. 412 of 2019 which was allowed on 09.06.2020. The appellant was however not released on bail in view of the subsequent case being Ara (Muffasil) (Dhobaha O.P.) P.S. Case No. 309/2019



dated 27.11.2019 under Sections 302, 201 and 120B of the Indian Penal Code read with Sections 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

It is his submission that same informant lodged this case after identifying the dead body of his son on 26.11.2019, this time he named the appellant along with others as an accused alleging that they had taken away the son of the informant and had burnt him and burnt dead body was thrown.

Learned Counsel submits that as this subsequent case was amalgamated with the first case, he moved for a fresh bail application which was rejected by learned 1st Additional Session Judge, Ara vide order dated 14.07.2021. It is thus, his submission that in respect of the same matter and the allegations, once the appellant was allowed the bail, the learned 1st Additional Session Judge, Ara is not justified in rejecting the bail petition of the appellant on 14.07.2021. The appellant is



in custody since 13.03.2020. Moreover, similarly situated co-accused person has been enlarged on bail by a co-ordinate Bench of this Court vide order dated 08.07.2021 passed in Criminal Appeal(S.J.) No. 2842 of 2021.

Learned counsel appearing on behalf of the informant and learned Special P.P appearing on behalf of the State have vehemently opposed the prayer for bail of the appellant.

Taking into account the aforesaid facts, this Court deems it appropriate to set aside the order dated 14.07.2021 passed by learned 1st Additional Session Judge, Ara in connection with Barahara (Krishnagarh) P.S. Case No. 412 of 2019.

Accordingly, this appeal is allowed.

The appellant, above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Session



Judge, Bhojpur at Ara in connection with Barahara
(Krishnagarh) P.S. Case No. 412 of 2019.

(Sunil Kumar Panwar, J)

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