

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1433 of 2023

Arising Out of PS. Case No.-309 Year-2019 Thana- ARA MUFFSIL District- Bhojpur

CHHOTAK YADAV S/O Manu Yadav Resident of Village Saraiya, P.S.-
Krishnagarah (Barhara), District-Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar.
2. BHOLA NAT S/O Late Jamuna Nat Resident of Village Saraiya, P.S.
Krishnagarah (Barhara), District-Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ajay Kumar Singh
For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 13-07-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

The instant appeal has been filed by the appellant against the order dated 14.02.2023 passed by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST Act), Bhojpur at Ara, whereby the prayer for bail of the appellant in connection with Ara Muffasil P.S. Case No. 309 of 2019 under Sections 302, 201 and 120B of the Indian Penal Code and Section 3(2)(v) of the SC/ST Act was 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 and 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 has been falsely implicated in this case. It is further submitted that in the course of investigation, the appellant was taken into custody on 01.08.2022. The appellant moved for grant of regular bail in B.P. No. 02 of 2020 in the Court of learned 3rd Additional Sessions Judge, Bhojpur at Ara in connection with Barahara P.S. Case No. 412 of 2019 instituted under Sections 363 and 365 of the Indian Penal Code read with Section 3(2)(va) of the SC/ST Act, which was allowed on 23.01.2020. 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 of 2019 dated 27.11.2019 under Sections 302, 201 and 120B of the Indian Penal Code read with Sections 3(2)(v) of the SC/ST Act. The 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 dead body was thrown. Learned counsel for the petitioner further submitted 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 Sessions Judge-cum-Special Judge SC/ST Act, Bhojpur at Ara vide order dated 14.02.2023. 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 14.02.2023. The appellant is in custody since 01.08.2022. Moreover, similarly situated co-accused person has been enlarged on bail by this Bench vide order dated 16.03.2023 passed in Cr. APP (SJ) No. 617 of 2022.

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

Having heard learned counsel for the parties and taking into consideration, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 14.02.2023 arising out of Ara Muffasil P.S. Case No. 309 of 2019 is hereby set aside.

The appellant is directed to be enlarged on bail in connection with Ara Muffasil P.S. Case No. 309 of 2019 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-1st-cum-Special



Judge (SC/ST Act), Bhojpur at Ara.

(Sunil Kumar Panwar, J)

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