

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1417 of 2023

Arising Out of PS. Case No.-258 Year-2022 Thana- BACHHWARA District- Begusarai

Madhav Kumar @ Madhav Choudhary S/O Ranjit Choudhari @ Ranjit Chaudhary @ Karam Sheel Choudhary Resident of Village- Fateha, Ward No 02, P.S.- Bachawara, District- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Vikesh Kumar S/O Rameshwar Paswan Resident of Village- Fateha Ward no.- 05, P.S.- Bachhawara, District- Begusarai.

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 1314 of 2023

Arising Out of PS. Case No.-258 Year-2022 Thana- BACHHWARA District- Begusarai

1. Kanhaiya Choudhary @ Kanhaiya Kumar Son Of Manoj Chaudhary R/O Village- Fateha, P.S.- Bachhawara, District- Begusarai
2. Himanshu Choudhary @ Sudhanshu Choudhary @ Himanshu Kumar @ Sudhanshu Kumar Son Of Manoj Chaudhary R/O Village- Fateha, P.S.- Bachhawara, District- Begusarai

... .. Appellant/s

Versus

1. The State of Bihar
2. Vikesh Kumar Son of Rameshwar Paswan R/o vill- Fateha, ward no -05, P.S.-Bachhawara, District- Begusarai.

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 1417 of 2023)

For the Appellant/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Sandip Kumar Gautam, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

(In CRIMINAL APPEAL (SJ) No. 1314 of 2023)

For the Appellant/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Bipin Kumar, Advocate

For the Respondent/s : Mrs. Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 11-08-2023 Heard Mr. Ramakant Sharma, learned senior counsel



for the appellants assisted by Mr. Sandip Kumar Gautam and Bipin Kumar, Advocates and learned Special Public Prosecutor for the State.

2. This Cr. Appeal has been filed under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for regular bail of the appellant by an orders dated 09.02.2023 and 20.12.2022 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai in connection with Bachhwara P.S. Case No. 258 of 2022 registered under Sections 341, 323, 307, 379, 427, 34 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(i)(r), 3(2)(v) of SC/ST Act, 1989.

3. As per prosecution case, in brief, is that when the informant was going from Mansoorchak to Fateha by his tempoo when he reached nearby Kalali Chowk at the same time accused/appellants along with other accused persons encircled him and broken glass of his tempoo with pistol butt and beaten him and also snatched Rs.16751/- from his possession and thereafter when the informant ran away then the accused persons have shot-firing upon him but the informant fled away safely himself from there.

4. Learned senior counsel for the appellants submits



that appellant namely, Madhav Kumar @ Madhav Choudhary has carries two criminal antecedents, appellants namely, Kanhaiya Choudhary @ Kanhaiya Kumar and Himanshu Choudhary @ Sudhanshu Choudhary @ Himanshu Kumar @ Sudhanshu Kumar carries one criminal antecedent other than the present one.

5. Learned senior counsel for the appellants submits that the appellants namely, Kanhaiya Choudhary @ Kanhaiya Kumar and Himanshu Choudhary @ Sudhanshu Choudhary @ Himanshu Kumar @ Sudhanshu Kumar was not named in the F.I.R. and the names of these appellants have incorporated in the F.I.R. on the basis of application filed by the Investigating Officer.

6. Learned counsel for the appellants further submits that the appellants are innocent and they have falsely been implicated in the present case and bare perusal of F.I.R. it appears that there is no specific allegation of any assault or overt-act is attributed against these appellants rather there is general and omnibus allegation against all the accused persons including these appellants. He further submits that the police, after investigation, submitted the charge sheet against these appellants and the appellant namely, Madhav Kumar @ Madhav



Choudhary is in custody since 11.01.2023 and appellants namely, Kanhaiya Choudhary @ Kanhaiya Kumar and Himanshu Choudhary @ Sudhanshu Choudhary @ Himanshu Kumar @ Sudhanshu Kumar are in custody since 21.11.2022.

7. The learned counsel appearing on behalf of the Respondent No.2 as well as learned Special Public Prosecutor have vehemently opposed the prayer for bail of the appellants.

8. Considering the aforesaid facts and circumstances, let the appellants, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai in connection with Bachhwara P.S. Case No. 258 of 2022, subject to the following conditions:-

1. Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

2. If the appellants tamper with the evidence or the witnesses, in that case, the



prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage it is found that the appellants have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

Accordingly, the impugned orders dated 09.02.2023 and 20.12.2022 are set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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