

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1527 of 2023

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

Vivek Chaudhary Son of Hardeo Chaudhary Resident of Village - Fateha,
Police Station - Bachhwara, District - Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Vikesh Kumar Son of Sri Rameshwar Paswan Resident of Village - Fateha,
Ward No.- 05, Police Station - Bachhwara, District - Begusarai.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhay Kumar Jha, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 18-08-2023 Heard learned counsel for the appellant as well as
learned Spl.P.P. for the State.

2. I.A No. 01 of 2023 in Cr. Appeal (SJ) No. 1527 of
2023 has been filed for acceptance of the service report of notice
to the Respondent No. 2 as a valid service of the notice upon the
Respondent No. 2.

3. Learned counsel for the appellant submits that the
service report reveals that the notice served to Respondent No. 2
through ordinary process has been received by the Bhabhi of the
Respondent No. 2 and through registered cover it was received
by the brother of the Respondent No. 2. He further submits that
all the family members of the Respondent No. 2 are living



together in the same house including his brother and Bhabhi, therefore, the notice is validly served upon the Respondent No. 2.

4. In view of the aforesaid, the notice served to Respondent No. 2 is deemed to be accepted.

5. This is an appeal under Sections 14(A)(2) against refusal of the prayer for regular bail by order dated 27.02.2023 passed by the learned Court of Exclusive Special Judge SC/ST (POA) Act, Begusarai in connection with Bachhwara P.S. Case No. 258 of 2022, F.I.R. dated 05.10.2022 registered under Sections 341, 323, 307, 379, 427/ 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i) (r) / 3(2) (v) of the Scheduled Castes and Scheduled Tribes Act.

6. According to the prosecution case, some miscreants surrounded the informant while he was selling Brinjal and snatched Rs. 16,751/- and also assaulted him. It is further alleged that the miscreants started firing upon him and then they fled away with the informant's tempo.

7. Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. He further submits that from perusal of the F.I.R it appears that there is no specific allegation



of assault or overt act attributed against the appellant rather there is general and omnibus allegation against all the accused persons including the appellant. He further submits that the police, after investigation, submitted charge sheet against the appellant. The appellant is in custody since 03.02.2023.

8. Learned Special Public Prosecutor for the State has vehemently opposed the prayer for bail of the appellant.

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

i. Appellant 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.



iii. And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant have concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. 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.

10. Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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