

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1762 of 2023

Arising Out of PS. Case No.-159 Year-2022 Thana- KATIHAR MUFFASIL District- Katihar

Dipak Kharwar @ Dukhna S/O Late Akalu Kharwar Resident of Village-
Naya Tola, Brahamchari, P.S.- Mufassil (Katihar), District- katihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Gauri Munda S/O Sukhdeo Munda Resident of Village- Naya Tola-
Brahamchari, P.S.- Mufassil, (Katihar), District- Katihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bhola Prasad, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 01-09-2023 Despite of validly served notice upon the Respondent

No. 2, no one appears on behalf of the Respondent No. 2.

2. Heard learned counsel for the appellant as well as
learned Spl.P.P. for the State.

3. This is an appeal under Sections 14(A)(2) against
refusal of the prayer for regular bail by order dated 18.03.2023
passed by the learned Court of Additional Sessions Judge- 1st
cum Special Judge (SC/ST), Katihar in connection with Katihar
(Mufassil) P.S. Case No. 159 of 2022, F.I.R. dated 07.09.2022
registered under Sections 341, 323, 324, 326, 307, 379, 504,
506/ 34 of the Indian Penal Code and Sections 3(i) (r) (s)/ 3(2)
(va) of the Scheduled Castes and Scheduled Tribes Act.



4. According to the prosecution case, due to previous enmity, this appellant along with other accused persons surrounded the son of the informant, verbally abused him, snatched his mobile phone and brutally assaulted him.

5. 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 acquisition of assault or overt act attributed against the appellant and as per the allegation alleged in the F.I.R, this appellant along with other accused persons have caught hold the son of the informant and the co-accused persons, namely, Dilip Kharwar and Nitesh Kharwar has assaulted to the son of the informant by inflicting knife blow upon his head, ear and abdomen. He further submits that the similarly situated co-accused, namely, Thappu Kharwar @ Dilip Kharwar who inflicted the knife blow upon the son of the informant has been granted bail by a Co-ordinate Bench of this Court vide order dated 14.07.2023 passed in Cr. App. (SJ) No. 1943 of 2023 and the police, after investigation, submitted charge sheet against the appellant. The appellant is in custody since 16.11.2022.

6. Learned Special Public Prosecutor for the State has



vehemently opposed the prayer for bail of the appellant.

7. 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 Additional Sessions Judge- 1st cum Special Judge (SC/ST), Katihar in connection with Katihar (Mufassil) P.S. Case No. 159 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.

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

(Rajesh Kumar Verma, J)

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