

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2571 of 2023

Arising Out of PS. Case No.-50 Year-2022 Thana- MAIGRA District- Gaya

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GIRDHARI BHUIYAN SON OF ANNACH BHUIYAN RESIDENT OF
VILLAGE- PACHMAH, PS- MAIGRA, DISTT- GAYA

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Javed Jafar Khan, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-07-2023 Heard learned counsel for the appellant and learned
Special P.P. for the State.

This appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been directed against the order dated 28.04.2023 passed by learned Exclusive Special Judge SC/ST, Gaya in connection with Maigra P.S. Case No. 50 of 2022 registered under Sections 147, 148, 149, 447, 448, 436, 427, 379, 382, 307, 302, 120B/34, 440, 449, 452, 461, 396, 397 and 402 of the Indian Penal Code and Section 3 and 4 of the Prevention of Witch Craft Act but later on Section 3(i)(r)(s)(u)(2)(2b), 3, 2(iii)(iv)(v-a) of SC/ST (POA) Act has been added, whereby the prayer for bail of the appellant has been rejected.

The FIR has been lodged against 69 named accused



persons against whom allegation of burning to the wife of the informant on the allegation that she is playing dyne.

Learned counsel for the appellant submits that the appellant and the informant belong to the same community, therefore, notice is not required to be served upon the informant.

Learned counsel appearing for the appellant submits that the appellant, who is of clean antecedent, has falsely been implicated in this case on the basis of suspicion. He further submits that the allegation, as alleged in the F.I.R., is false and fabricated as the appellant has not committed any offence. He further submits that from bare perusal of the F.I.R., it appears that no specific accusation of assault or any overt act is attributed to the appellant rather general and omnibus allegation is leveled against the appellant in the F.I.R. He further submits that the appellant is not the assailant of the deceased rather a mob of villagers had killed the deceased and the appellant is said to be the member of unlawful assembly. He further submits that the police after investigation has submitted charge-sheet in this case against the appellants. He further submits that co-accused, Brihaspat Bhuiyan has been granted bail by a co-ordinate Bench of this Court vide order dated 24.06.2023 passed in Cr. Misc. No. 36692 of 2023 and the co-accused, Gollu Bhuiyan @ Shyam Kumar along with Sawai Bhuiyan @ Subai and Lalu Bhuiyan @ Late Kumar have already been granted anticipatory bail by a co-



ordinate Bench of this Court vide order dated 12.06.2023 passed in Cr. Misc. No. 18556 of 2023. He further submits that the accusation also does not constitute any offence attracting complicity of SC/ST Act against the appellant. The appellant is rotting in judicial custody since 24.01.2023.

Learned counsel appearing for Special P.P. for the State vehemently opposed the prayer for bail of the appellant and submits that the appellant is said to be the member of unlawful assembly and has actively participated in the alleged occurrence.

Considering the facts and circumstances of the case, let the above named appellants 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 Act, Gaya in connection with Maigra P.S. Case No. 50 of 2022 subject to the following conditions;

(1) 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 their absence on two consecutive dates without sufficient reason, their bail bond shall be canceled by the Court below.

(2) 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.

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 has 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.

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

(Rajesh Kumar Verma, J)

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