

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.2750 of 2022

Arising Out of PS. Case No.-73 Year-2022 Thana- SIKARPUR District- West Champaran

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1. Sandesh Mahto Son Of Yogi Mahto Resident Of Durgolia, P.S.- Shikarpur, District- West Champaran, Bihar
 2. Gamha Mahto Son Of Yogi Mahto Resident Of Durgolia, P.S.- Shikarpur, District- West Champaran, Bihar
 3. Yogi Mahto Son Of Late Gorakh Mahto Resident Of Durgolia, P.S.- Shikarpur, District- West Champaran, Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Urmila Devi Wife Of Bhairo Ram Resident Of Durgbaliya, P.S.- Shikarpur, District- West Champaran, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rishabh Mishra

For the Respondent/s : Mr. Binay Krishna

For the Respondent No.2: None

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 04-01-2023 Despite the valid service of notice, nobody is present on behalf of the Respondent No. 2.

Heard Ld. counsel for the appellant and Ld.



Special Public Prosecutor for the State.

This criminal appeal has been filed to enlarge the appellants on bail, impugning the order dated 23.06.2022, passed by the Ld. Additional District and Sessions Judge 1st-cum-Spl. Judge (SC and ST Act), Bettiah, West Champaran, arising out of Shikarpur P.S. Case No. 73 of 2022, registered for the offences punishable under Sections 341, 323, 354(B), 379, 504 and 34 of the Indian Penal Code and 3 (I) (r) (s) of the SC/ST Act, whereby bail has been denied to the appellants.

The prosecution case as emerging from the FIR is that appellant and along with his associates assaulted and abused the informant, namely, Urmila Devi and his family members.

The Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that FIR has been lodged against the appellants after a delay of 23 days and there is also two versions of the alleged occurrence because counter case has also been filed by the accused side. He also submits that the



alleged injury has been found to be simple in nature.

He further submits that the appellant has been languishing in jail since 09.06.2022.

It has further been stated in paragraph no. 3 of the appeal that the appellant has no criminal antecedents.

It is also stated in paragraph no. 2 of the bail petitions that the appellants have not moved this Court earlier either for anticipatory bail or regular one.

However, the Ld. Special Public Prosecutor for the State vehemently opposes the prayer of the appellant for bail.

Considering the aforesaid facts and circumstances, the appeal is allowed, setting aside the impugned order dated 23.06.2022 , passed by the Ld. Additional District and Sessions Judge 1st-cum-Spl. Judge (SC and ST Act), Bettiah, West Champaran, and directing the appellant to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Ld. Additional District and Sessions Judge 1st-cum-Spl. Judge (SC and ST Act),



Bettiah, West Champaran on the following conditions:

(i) The appellants will make himself available for interrogation by a police officer/court as and when required.

(ii) The appellants will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The appellants shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the appellants have any criminal antecedents, the learned court below shall cancel the bail bonds of the appellants after hearing him and getting satisfied that the appellants have concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is



wrong, the Ld. court below shall cancel the bail bonds of the appellant.

The Ld. counsel for the appellant is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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