

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3030 of 2022

Arising Out of PS. Case No.-193 Year-2021 Thana- MASHRAK District- Saran

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KRISHNA NUT, Son of Lotan Nut, R/V- Banara Nut Toli, P.S- Mashrak,
Dist- Saran

... .. Appellant/s

Versus

1. The State of Bihar
2. Niraj Kumar son of Raj Kishor Manjhi village- Dubauli, P.s.- Panapur,
District- Saran

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr.Nalin Kumar, Advocate
For the State	:	Mr.Binay Krishna, Spl. PP
For the Informant	:	Mr.Yashraj Bardhan, Advocate
		Mr.Abhishek Kr. Srivastava, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 15-02-2023 Heard learned counsel for the appellant and learned

Special P.P. for the State, as well as learned counsel for the

informant.

This Court would expect that the appellant's
counsel would honour his undertaking in the instant proceedings
regarding supply of the requisite court fee etc. within two weeks
from the date he is called upon to do so by the office.

The appellant has preferred the present appeal
under Section 14(A)(2) of the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act against the refusal of his
prayer for bail arising out of Mashrak P.S. Case No. 193 of 2021
instituted for the offence under Sections 302 and 34 of the



Indian Penal Code, and Section 3 (2) (v) of the SC/ST (POA) Act and also for setting aside the order dated 30.07.2022 passed by learned 3rd Addl. Sessions Judge-cum-SC/ST Special Court, Saran.

It is alleged that the instant appellant, along with eight other named accused persons, assaulted informant's father (*Chowkidar*). Thereafter, he has been run over by a pickup van for objecting the illegal Cattle smuggling being carried on by the accused persons.

It is submitted by learned counsel for the appellant that earlier the prayer for bail was rejected by this Court in *Cr. Appeal (SJ) No. 3571 of 2021*. One significant development thereafter is grant of bail to similarly situated co-accused namely Bhagau Nut on 12.10.2022. The submissions is that against the appellant and other co-accused persons including Bhagau Nut, allegations are the same, being general and omnibus. The only accused against whom there is specific allegation is co-accused Raju Miyan. Considering this aspect of the matter, the prayer of Bhagau Nut has been allowed in *Cr. Appeal (SJ) No. 1258 of 2022*. Appellant, since his arrest on 13.04.2021, has been in custody. Moreover, investigation is also complete.



Learned Special PP as well as learned counsel for the informant have opposed the prayer for bail. It is submitted that informant is witness to the occurrence and the postmortem report also contains injuries. It is further submitted that the petitioner has one antecedent arising out of an allegation of theft.

The Court, on consideration of rival submissions, would find that the appellant has disclosed his antecedent in Paragraph 3 of the bail application. Further, the Court would also take notice of the fact that Bhagau Nut, who has been allowed bail, is similarly situated as the appellant, having general and omnibus allegations.

Considering the above noted facts, circumstances and submissions, including the period of custody and claim based on parity, as also the fact that investigation is complete, this Court is inclined to allow appellant's prayer for bail.

During the pendency of this appeal, let Appellant, above named, be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 3rd Addl. Sessions Judge-cum-SC/ST Special Court, Saran, in connection with Mashrak P.S. Case No.193 of 2021, subject to the conditions:-



(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

In the result, the appeal is allowed and the impugned order dated 30.07.2022 is set aside.

(Madhuresh Prasad, J)

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