

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2996 of 2022

Arising Out of PS. Case No.-137 Year-2021 Thana- PALANWA District- East Champaran

1. BHIKHARI SAH S/o Late Dukhi Sah Resident of Village- Pakhnaahiya, Police Station- Palanwa, District- East Champaran, Bihar.
2. Aasha Lal Kumar S/o Shiv Lochan Sah Resident of Village- Pakhnaahiya, P.S.- Palanwa, District- East Champaran, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Banarsi Thakur S/o ----- Resident of Village- Pakhnaahiya, Police Station- Palanwa, District- East Champaran, Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Alok Ranjan
For the Respondent No-1:		Mr. Binay Krishna
For the Respondent No-2:		Mr. Ram Adya Singh
		Mr. Shailesh Kumar

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 12-01-2023 Heard Ld. counsel for the appellants, Ld. Special Public Prosecutor for the State and Ld. Counsel for the Informant/Respondent No-2.

This criminal appeal has been filed to enlarge the appellants on bail, impugning the order dated 13.07.2022, passed by Ld. 1st Additional Sessions Judge cum Special Judge, SC/ST Act, East Champaran at Motihari, arising out of Palanwa P.S. Case No. 137 of 2021 registered for the offences punishable under Sections 341, 323, 324, 307, 354, 504 and 34 of the Indian Penal Code and later on



Section 302 of the Indian Penal Code was subsequently added and Section 3(1) (a) (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 on 08.09.2021 at about 07:30 A.M. the appellants along with their associates had brutally assaulted the wife of the informant and also abused her by taking her caste name.

Ld. counsel for the appellants submit that the appellants are innocent and have falsely been implicated in this case. He further submits that the allegation against the appellants is general and omnibus and injury allegedly caused by the accused-appellants are simple in nature. However, the alleged victim, namely, Harishankar Thakur has died after 25 days of the occurrence and this death has nothing to do with the alleged injury as he died of natural death by cardiopulmonary arrest and no external injury was found on his body. He also submits that other co-accused, namely, Prem Chandra Sah, Surendra Sah, Shiv Lochan Sah, Prabhawati Devi, Sunaina Devi, Lalita Devi and Renu have already been enlarged on bail vide order dated



26.09.2022 passed in Cr. Appeal (SJ) No. 101 of 2022 by anticipatory bail whereas other accused persons, namely, Birendra Sah and Binod Sah have already been enlarged on bail vide order dated 21.07.2022 passed in Cr. Appeal (SJ) No. 4809 of 2021 by regular bail respectively.

He further submits that the appellants have been languishing in jail since 10.03.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellants have no criminal antecedents.

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

However, Ld. Special Public Prosecutor for the State and Ld. Counsel for the Informant vehemently opposes the prayer of the appellants for bail.

Considering the aforesaid facts and circumstances, **this appeal is allowed**, setting aside the impugned order dated 13.07.2022, passed by Ld. 1st Additional Sessions Judge cum Special Judge, SC/ST Act, East Champaran at Motihari, and directing the appellants to be enlarged on bail



on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Ld. 1st Additional Sessions Judge cum Special Judge, SC/ST Act, East Champaran at Motihari in connection with Palanwa P.S. Case No. 137 of 2021 on the following conditions:

(i) The appellants will make themselves 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 their absence or non-cooperation. They must be available to the police or the court whenever their 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 them 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,



Ld. court below shall cancel the bail bonds of the appellants after hearing them and getting satisfied that the appellants have concealed their criminal antecedents despite their 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, Ld. court below shall cancel the bail bonds of the appellants.

Ld. counsel for the appellants is/are 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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