

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3191 of 2022

Arising Out of PS. Case No.-9 Year-2022 Thana- BAIRIYA District- West Champaran

MAHENDRA CHAUDHARY Son of Late Baldeo Chaudhary Resident of
Village - Bhitaha, P.s.- Bairiya, Distt.- West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sikandar Ram Son of Late Indrasan Ram Resident of Village - Bhitaha, P.s.-
Bairiya, Distt.- West Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Bimlesh Kumar Pandey
For the Respondent No-1:	:	Mr. Sadanand Paswan
For the Respondent No-2:	:	None

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 19-01-2023 Despite valid service of notice, nobody is present

on behalf of Informant/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

appellant on bail, impugning the order dated 16.06.2022,

passed by Ld. Additional District and Sessions Judge 1st cum

Special Judge, SC/ST, Bettiah, West Champaran, in

connection with Bairiya P.S. Case No. 09 of 2022, registered

for the offences punishable under Sections 420, 506 and

120B of the Indian Penal Code and Sections 3(i)(r) of the



SC/ST Act, whereby bail has been denied to the appellant.

As per the allegation, the best case of the appellant is that there is an agreement for sale and part payment has been made by the informant to the accused-appellant but the appellant is not performing his part by executing sale-deed in favour of the informant.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that as per the alleged facts and circumstances, the dispute is of civil nature and remedy lies in civil law by filing suit for specific performance and no offence is made out as per the alleged facts and circumstances.

He further submits that the appellant has been languishing in jail since 04.03.2022.

It has also 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 appeal that the appellant has not moved this Court earlier either for



anticipatory bail or regular one.

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

Considering the aforesaid facts and circumstances, **this appeal is allowed**, setting aside the impugned order dated 16.06.2022, passed by Ld. Additional District and Sessions Judge 1st cum Special Judge, SC/ST, Bettiah, West Champaran, and directing the appellant to be enlarged 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 Ld. Additional District and Sessions Judge 1st cum Special Judge, SC/ST, Bettiah, West Champaran, in connection with Bairiya P.S. Case No. 09 of 2022, on the following conditions:

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

(ii) The appellant 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 appellant 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 trial court that the appellant has any criminal antecedents, the Ld. trial court shall cancel the bail bonds of the appellant after hearing him and getting satisfied that the appellant has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the trial court that statement regarding previous bail appeal is wrong, the Ld. trial court shall cancel the bail bonds of the appellant.

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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