

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3281 of 2022

Arising Out of PS. Case No.-546 Year-2022 Thana- MUFFASIL District- West Champaran

UMA SAH Son of Thakur Sah R/V- Bharpatiya, P.S- Muffasil (Manuapul
O.P) Dist- West Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Nandan Kumar Son of Jung Bahadur Ram R/V- Bharpatiya, P.S- Muffasil (Manuapul O.P) Dist- West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjeev Kumar, Advocate

For the Respondent/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

7 17-05-2023 1. Heard learned counsel for the appellant and
learned APP for the State.

2. The instant criminal appeal has been filed under Section 14(A)(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, against the order dated 22.08.2022 passed by learned 1st Additional District and Sessions Judge-cum-Special Judge(SC&ST), Bettiah, West Champaran in connection with Bettiah (M) Manuapool P.S. Case No.546 of 2022 dated 06.07.2022 registered for the offences punishable under Sections 341, 323, 324, 379 504 and 506/34 of the Indian Penal Code and Sections 3(i)(r)(s) of SC/ST (POA) Act by which the the appellant's prayer for bail



has been rejected.

3. The main submissions advanced by learned counsel appearing for the appellant are that as per the allegation levelled against this appellant in the FIR, he caused *farsa* blow at the head of the informant and the details of the injury of the informant has been discussed in the order impugned which shows that a lacerated wound in the size of 2cmx1cm skin deep over right parietal temporal region of scalp was found on the body of the informant and the said injury was opined by the doctor concerned as having been caused by hard and blunt object and the said medical expert's opinion is completely contradictory to the nature of allegation levelled against this appellant in the FIR and informant did not sustain any serious injury as per the said medical expert's opinion and Section 307 of IPC was not added in the FIR rather Section 324 of IPC was added. There is also a counter version as Bettiah (M) Manualpool P.S. Case No.545 of 2022 lodged by the wife of this appellant and as per the allegation levelled in the said counter case the prosecution party badly assaulted the appellant's son and also misbehaved with his wife. Further submission is that the appellant's prayer for bail has been allowed provisionally by order dated 02.11.2022 and in the light of the said privilege the



appellant is still on provisional bail.

4. Learned APP appearing for the State opposes the bail prayer and submits that the appellant does not deserve to the privilege of bail.

5. Considering the above submissions and mainly the medical expert's opinion with regard to the injury, which is stated to have been found on the right parietal temporal region of scalp of the informant which is contradictory to the nature of allegation levelled against the appellant in the FIR, in my opinion the appellant is entitled to the confirmation of privilege of provisional bail. Accordingly, the order impugned is hereby set aside and the instant appeal stands allowed and the provisional bail granted to the appellant is **hereby confirmed**.

(Shailendra Singh, J)

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