

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3372 of 2022**

Arising Out of PS. Case No.-254 Year-2022 Thana- BELHAR District- Banka

Sulo Yadav @ Surendra Yadav, S/o Late Singeshwar Yadav, Resident of
Village- Chakwara, P.S.- Sangrampur, District- Munger

... .. Appellant/s

Versus

1. The State of Bihar
2. Ajit Paswan son of Sita Ram Paswan, Resident of Village- Champatari, P.S.-
Belhar, District- Banka

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Dharendra Kumar, Advocate
For the Informant	:	Mr. Surya Narayan Sah, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 07-04-2023 Heard the parties.

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 02.08.2022 passed by the learned Additional Sessions Judge-1, Banka, arising out of Belhar P.S. Case No. 254 of 2022 registered for the offences punishable under Sections 448, 341, 323, 324, 504, 506, 379/34 of the Indian Penal Code and Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act by which the appellant's prayer for bail was rejected.

The main submissions advanced by learned counsel



for the appellant are that in fact the appellant had purchased a land near the house of the informant and whenever he came to take possession over his purchased land, the prosecution party always objected to it due to which the appellant could not get possession over his purchased land, previously the wife of informant lodged Belhar P.S. Case No. 241 of 2019 with regard to the same land of the appellant in which the appellant was granted anticipatory bail by a co-ordinate bench of this court vide order passed in Cr. Appeal (SJ) No. 810 of 2020 (Annexure- P/2). Further submission is that in the FIR there is no specific allegation against the appellant and except Belhar P.S. Case No. 241 of 2019 lodged by informant's wife prior to lodging of the FIR of the present matter there is no any other criminal antecedent against the appellant and he has been languishing in jail since 30.07.2022.

Learned counsel appearing for the informant has vehemently opposed the bail prayer and submitted that the appellant is named in the FIR, he is stated to be one of the assailants and against him there is criminal antecedent of one case and his prayer for bail has been rightly rejected by the trial court and this appeal is liable to be dismissed.

Learned APP has also opposed this appeal.



Having regard to the facts and circumstances of this case and considering the above-mentioned submissions and mainly the fact that in the FIR there is no specific allegation against the appellant and the main allegation of having assaulted at the informant is against co-accused Dinesh Yadav and Kailash Yadav by means of kulhadi (axe) and farsa but as per the informant's injury report two lacerated wounds were found on his body in addition to body-ache which goes against the nature of the weapons allegedly used by the said co-accused persons and most of the injuries of other injured persons namely Sanjana Kumari, Amarjeet Paswan and Punam Devi were found in the nature of swelling, pain and bodyache and the appellant has been languishing in jail since 30.07.2022 and as per the above submission there is a land dispute in between both the parties and the informant's wife had earlier lodged Belhar P.S. Case No. 241 of 2019 against the appellant in which anticipatory bail was granted to appellant and others by a co-ordinate bench of this court vide order passed in Cr. Appeal (SJ) No. 810 of 2020, in my opinion, appellant deserves to the privilege of bail. Hence, the order impugned is hereby set aside and the appeal stands allowed and the appellant is directed to be released on bail on furnishing of bail bond of Rs.10,000/- with two sureties of like



amount each to the satisfaction of the Court concerned, in connection with Belhar P.S. Case No. 254 of 2022, on the following conditions:

- (1) Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.
- (2) If the appellant tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.
- (3) One of the bailors shall be a close relative of the appellant who has sworn affidavit in this appeal.

In the result, the instant appeal stands allowed.

(Shailendra Singh, J)

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