

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3490 of 2022

Arising Out of PS. Case No.-12 Year-2022 Thana- SC/ST District- Banka

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1. MD. KHUDDUSH SHEKH @ MD. KUDUS Son of Late Ishak Shekh R/V- Gora Chandan, P.S- Chandan Dist- Banka
 2. Md. Khurshid Sekh @ Md. Khurshid Son of Late Ishak Shekh R/V- Gora Chandan, P.S- Chandan Dist- Banka

... .. Appellant/s

Versus

1. The State of Bihar
2. Geeta Devi Wife of Late Mangru Tanti R/V- Paharpur, P.O- Bank, P.S- Chandan, Dist- Banka

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Md. Javed Jafar Khan
For the Respondent no.1	:	Mr. Sadanand Paswan
For the Respondent no.2	:	None

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 18-01-2023 Despite valid service of notice nobody has been present on behalf of the Respondent no.2/informant.

Heard Ld. counsel for the appellants and Ld. APP for the State.

This criminal appeal has been filed to enlarge the appellant on bail, impugning the order dated 16.09.2022, passed by the Ld. Additional Sessions Judge-1, Banka, in connection with Special SC/ST Case No. 36 of 2022, arising out of SC/ST P.S Case No. 12 of 2022 registered for the offences punishable under Sections 341,323, 385, 354(B),



504, 506 and 34 of the I.P.C and Sections 3(1)(r)(s)(g) and 3(2)(va) of SC/ST Act, whereby bail has been denied to the appellant.

The prosecution case as emerges from the FIR is that on 19.05.2022 at 12:00 O'clock in the noon petitioners came to the house of informant and abused her by taking her caste and forcibly demanded her residential land and both these accused tried to commit rape with her daughter. On *hulla*, her son-in-law came there. Thereafter, the appellants threatened her to kill if she does not give land or Rs 10 lakh as *rangdari*. On denial, they assaulted her with slaps and fists. Later on they fled away.

Ld. counsel for the appellants submits that the appellant are innocent and have falsely been implicated in this case. He further submits that appellants are implicated in this case on account of the fact that the agreement for sale has been executed by the informant in favour of the accused-appellants for transfer of land for consideration amount of Rs. 6,11,000/- (Six Lakh Eleven Thousand Rupee Only) out of which in cash and Rs. 5,51,000/-(Five Lakh



Eleven Thousand Rupee Only) and 52,470 (Fifty Two Thousand Four Hundred Seventy Rupee Only) through RTGS is already paid to the informant. However, the land sale deed was not executed by the informant in favour of the appellants and the same has been sold to someone else and when the appellants asked about the transfer, these false case has been filed.

He further submits that the appellants have been languishing in jail since 23.07.2022 and 16.08.2022, respectively.

It has also been stated in paragraph no. 3 of the appeal that the appellant no. 1 has no criminal antecedents and appellant no. 2 has earlier been made accused in one other case.

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 vehemently opposes the prayer of the appellants for bail.



Considering the aforesaid facts and circumstances, **the appeal is allowed**, setting aside the impugned order dated 16.09.2022, passed by Ld. Additional Sessions Judge-1, Banka, and directing the appellants to be released 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. Additional Sessions Judge-1, Banka in connection with Special SC/ST Case No. 36 of 2022, arising out of SC/ST P.S Case No. 12 of 2022 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 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 appellants have criminal antecedents other than the disclosed one, Ld. trial court 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 trial court that statement regarding previous bail appeal is wrong, Ld. trial court shall cancel the bail bonds of the appellants.

Ld. counsel for the appellants 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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