

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3692 of 2022**

Arising Out of PS. Case No.-23 Year-2021 Thana- SC/ST District- Banka

Deepak Yadav @ Deepak Kumar Yadav @ Deepak Kumar, Son of Late
Siyaram Yadav, Resident of Village- Gorgama, Police Station- Amarpur,
District- Banka

... .. Appellant

Versus

1. The State of Bihar
2. Bhutti Harijan, Son of Fagu Harizan, Resident of Village- Gorgama, P.S.-
Amarpur, District- Banka

... .. Respondent

Appearance :

For the Appellant	:	Mr. Praveen Kumar
For the Respondent	:	Mr. Binay Krishna, A.G

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 28-02-2023 Despite service of notice, the informant has refused to receive the notice. As such, the service of notice is deemed to be complete. However, nobody is present on behalf of the 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 03.08.2022, passed by Additional Sessions Judge-I, Banka, in connection with SC/ST P.S. Case No. 23 of 2021, in G.R. No. 58 of 2021, registered for the offences punishable under Sections



341, 323, 325, 307, 504, and 34 of the Indian Penal Code and Section 3(1)(r)(s) of the SC/ST Act , whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is that on 28.06.2021 at around 4:00 pm while the informant was grazing cattle, the accused persons armed with lathi, danda and rod came and started abusing him taking his caste name and assaulted him as well, as a result, the informant suffered hand injury. Further, he was sent for treatment.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that there is inordinate delay of about 70 days in lodging the FIR. He also submits that the assault is not on the vital part of the body because as per allegation the victim has sustained injury on his hand. He further submits that investigation in this case is complete and charge-sheet has already been submitted.

He further submits that the appellant has been languishing in jail since 19.07.2022.



It has also been stated in paragraph no. 3 of the appeal that the appellant has no criminal antecedent.

It is also stated in paragraph no. 2 of the appeal that the appellant has moved this Court earlier for anticipatory bail vide Criminal Appeal (SJ) No. 275 of 2022.

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

Considering the aforesaid facts and circumstances, **the appeal is allowed**, setting aside the impugned order 03.08.2022, passed by Additional Sessions Judge-I, Banka, and directing the appellant to be released 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 Sessions Judge-I, Banka in connection with SC/ST P.S. Case No. 23 of 2021, in G.R. No. 58 of 2021, **after framing of charge, if not already framed**, subject to 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 get hampered 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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