

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3965 of 2022**

Arising Out of PS. Case No.-450 Year-2020 Thana- SAUR BAZAR District- Saharsa

Rajendra Yadav Son Of Gosai Yadav R/O Village- Berwa, P.S.- Madhepura,
District- Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Shobah Devi Wife Of Late Pulkit Paswan R/O Dhanchhoha, P.S.- Saur Bazat, District- Saharsa

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sunil Kumar

For the Respondent/s : Mr.Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER**

3 23-03-2023 Heard learned counsel for the appellant and

learned Special P.P for the State.

The appellant has challenged the order dated 07.09.2022 passed by learned Additional Sessions Judge-III-cum-Special Judge, SC/ST Act, Saharsa in connection with Special Case No. 131 of 2020 (arising out of Saharsa Sour Bazar (Baijnathpur O.P.) P.S. Case No. 450 of 2020) instituted for the offences punishable under Sections 341, 323, 302, 201, 504, 506, 34 of the Indian Penal Code, Sections 3(i)(r)(s), 3(ii)(v) of the SC & ST (Prevention of Atrocities) Act whereby his



prayer for being released on bail has been rejected.

The prosecution case as per F.I.R. is that on 01.12.2022, the informant received an information that her husband has been killed when he had gone to participate in a *Puja*. It is alleged that about ten days back, co-accused namely, Wishwa Prakash Bharti, who runs a *Chimini* in the village, had threatened to commit the murder of the husband of the informant. It is alleged that appellant also two days back had abused the husband of the informant by using his caste name as detailed in the F.I.R. and had also threatened to kill him.

It is submitted by learned counsel for the appellant that appellant is innocent and he has falsely been implicated in this case. As per F.I.R., it would manifest that no offence under the SC/ST Act, is *prima facie*, made out against the appellant. It is next submitted that the police, after investigation, submitted final form in favour of the appellant and the learned Court below in a mechanical manner differing with the



police report took cognizance. It is next submitted that during the course of investigation no material came which could even remotely connect the appellant with the offence. It is then submitted that it is beyond comprehension that on what basis the learned Court below proceeded to take cognizance of the offence, when *prima facie*, from bare reading of the allegation as alleged in the F.I.R. no offence under the SC/ST Act is made out against the appellant. The appellant is in custody since 07.09.2022.

Learned Special P.P appearing on behalf of the State has vehemently opposed the prayer for bail of the appellant.

Taking into account the aforesaid facts, this Court deems it appropriate to set aside the order dated 07.09.2022 passed by learned Additional Sessions Judge-III-cum-Special Judge, SC/ST Act, Saharsa in connection with Special Case No. 131 of 2020 (arising out of Saharsa Sour Bazar (Bajjnathpur O.P.) P.S. Case



No. 450 of 2020).

Accordingly, this appeal is allowed.

The appellant, above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III-cum-Special Judge, SC/ST Act, Saharsa in connection with Special(SC/ST) Case No. 131 of 2020 (arising out of Saharsa Sour Bazar (Bajjnathpur O.P.) P.S. Case No. 450 of 2020).

(Sunil Kumar Panwar, J)

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