

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4277 of 2022

Arising Out of PS. Case No.-32 Year-2022 Thana- NAYAGAON District- Begusarai

Abhishek Kumar @ Langta Son of Shankar Singh, R/V Bhairwar, P.S.-
Begusarai Muffasil, District- Begusarai

... .. Appellant/s

Versus

1. The State of Bihar
2. Dharmendra Kumar Paswan Son of Sri Hare Ram Paswan R/O Village-
Safapur, P.S.- Nayagaon, District- Begusarai

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agrawal, Sr. Advocate, Mr. Pushpendra Kumar Singh, Advocate Ms. Divya Bharti, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 06-04-2023 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 17.11.2022 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai in connection with Nayagaon P.S. Case No. 32 of 2022 registered for the offences punishable under Section 307/34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v-a) 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 admittedly the alleged offence of attempt to murder was committed by unknown miscreants in the night and the informant himself revealed in the FIR that he could not identify any of the miscreants, during the investigation the appellant was dragged in the instant matter mainly on the basis of the confessional statement of co-accused and except the said statement there is no material to connect the appellant to the alleged crime and even during investigation no witness examined by the investigating officer claimed to have seen the appellant committing the alleged occurrence. Further submission is that the appellant is a resident of Mufassil police station whereas the informant is a resident of Nayagaon police station and in between them there was no enmity so there was no reason for the appellant to be involved in the alleged crime and he has been languishing in jail since 21.10.2022 and against him the investigation has been completed.

No one appears on behalf of respondent no.2.

It is submitted by learned Spl. P.P. that the informant of this case has been informed through Superintendent of Police in the light of the direction given by the this court on 22.12.2022 but he has not appeared in this matter. Though the learned Spl. P.P. has opposed this appeal but fairly accepted that against the



appellant except confessional statement of co-accused there is no other material.

Having considered the above submissions as well as the facts and circumstances of the case and mainly the facts that during the investigation no witness claimed to have seen this appellant committing the alleged occurrence and the prosecution is mainly relying upon confessional statement of co-accused given before the police in respect of the involvement of the appellant in the alleged crime and the appellant has taken the defence that there is no enmity in between him and the deceased who was a political person and also taking into account the appellant's custody period, in my opinion, appellant deserves to the privilege of bail. Hence, 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 Nayagaon P.S. Case No. 32 of 2022, in 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)

Rajiv/-

U		T	
---	--	---	--

