

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4428 of 2022

Arising Out of PS. Case No.-199 Year-2022 Thana- MAHARAJGANJ District- Siwan

Tarkeshwar Patel @ Tarkeshwar Prasad S/O Birendra Prasad @ Virendar Prasad Resident of village- Resaura, P.S.- Maharajganj, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. Rakesh Basfor S/O Late Manager Basfor Resident of Village- Bherbania, P.S.- Bhagwanpur, District Siwan (Informant).

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Vaishnavi Singh, Advocate
For the Informant	:	Mr. Sanjay Kumar Singh, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Special.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 3 02-03-2023 Heard learned counsel appearing for the appellant, learned counsel appearing on behalf of the informant as well as learned Special Public Prosecutor for the State.

This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for bail by order dated 19.11.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Siwan in connection with Maharajganj P.S. Case No. 199 of 2022 registered under Sections 302, 120(B)/34 of the Indian Penal Code and Sections 3(1)(r)(s), (2)(va) of the Schedule Caste & Schedule Tribe



(Prevention of Atrocity) Act.

As per prosecution case, the accused persons including the appellant and 25-30 unknown persons surrounded the informant's parents and assaulted his father with *lathi, danda, fist and slaps* and his father and when he demanded water and they did not give him water and they took his father on vehicle to Resaura and assaulted his father. On information police reached village Resaura and rescued his father and admitted him in injured condition at Sub-Divisional Hospital, Maharajganj, where the doctor declared him dead.

Learned counsel for the appellant submits that the appellant has clean antecedent and he has been falsely implicated in the present case. He further submits that it appears from the F.I.R. that there is general and omnibus allegation against all the accused persons including the appellant and there is no specific allegation of any assault or overt act against the appellant and the police after investigation submitted chargesheet against the appellant and the appellant is in custody since 27.09.2022.

Learned counsel appearing on behalf of the informant as well as learned Special Public Prosecutor for the State have vehemently opposed the prayer for bail of the appellant.



Considering the aforesaid facts and circumstances of the case, let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with Maharajganj P.S. Case No. 199 of 2022, with 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 and shall remain physically present as directed by the Court 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 witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.



Accordingly, the impugned order is set aside and this
appeal stands allowed.

(Rajesh Kumar Verma, J)

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