

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.775 of 2024

Arising Out of PS. Case No.-177 Year-2023 Thana- PHULWARIA District- Begusarai

Gurakesh Kumar @ Hare Ram Sah Son Of Anandi Sah R/O-Phulwaria
Paschim Tola, P.S.-PHULWARIA, Distt.- BEGUSARAI

... .. Appellant/s

Versus

1. The State Of Bihar
2. Ashok Kumar Son Of Manohar Das R/O-Rajour, P.S.-GARHPURA, Distt.-
BEGUSARAI

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amar Kumar Singh
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

5 27-06-2024 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the SC/ST Act) against the refusal of prayer of bail *vide* order dated 17.01.2024 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai in connection with Fulwaria P.S. Case No. 177/2023, registered for the offence/s punishable u/ss 323, 341, 307, 420, 406, 504, 506 read with section 34 of the Indian Penal Code, u/ss 3(i)(r)(s)/3(2)(va) of the SC/ST (POA).

3. As per the prosecution case, the appellant has taken Rs. 77,000/- in cash in three installments in the name of



providing job as a Yoga therapist at Help and Wellness Centre, but has not provided any job or returned the informant's money so far. Whenever the informant demands the money, appellant tries to frame the informant by filing a harassment case with a girl and forcibly beats under the pretext of paying money and also abuses the informant by calling his caste name. The appellant intentionally hit the informant with kicks and punches with the intention to kill.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. There is general and omnibus allegation against the appellant. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no particular caste name has been called by the appellant hence no case is made out under section SC/ST Act. There is land dispute between both the parties. The date of occurrence in the year 2018 to 25.05.2020 but the case was lodged on 13.12.2023 therefore whole prosecution story is doubtful. There is case and counter case between the parties. The appellant has six criminal antecedents as stated in para 3 of the bail petition. The appellant is in custody since 16.12.2023.

5. Learned counsel learned Spl. P.P. for the State as



well as learned counsel for the respondent no. 2 has vehemently opposed the prayer of bail.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 17.01.2024 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai in connection with Fulwaria P.S. Case No. 177/2023, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai, in connection with Fulwaria P.S. Case No. 177/2023, with a condition:-

(i) The appellant is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellant are liable to be cancelled.

(Chandra Prakash Singh, J)

Ranjeet/-

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