

(2022) 08 PAT CK 0049

Patna High Court

Case No: Criminal Appeal (SJ) No. 890, 949 Of 2022

Abhimanyu Singh @ Abhimanyu
Kumar Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Aug. 25, 2022

Acts Referred:

- Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3(1)(r), 3(1)(s), 3(1)(va), 14A(2)
- Code Of Criminal Procedure, 1973 - Section 437(3)
- Indian Penal Code, 1860 - Section 34, 307, 323, 341, 379, 504, 506

Hon'ble Judges: Arun Kumar Jha, J

Bench: Single Bench

Advocate: Yash Singh, Usha Kumari 1, Yash Singh, Binay Krishna

Final Decision: Allowed

Judgement

Since both the appeals arise out of Siwan SC/ST P.S. Case No. 21 of 2021, as such, they have been heard together and are being disposed of by this common judgment.

Notice has been validly served upon the respondent no. 2 but no one appears on behalf of the respondent no.2. Considering the valid service of notice, the matter is proceeded even in absence of respondent no. 2.

Heard learned counsel for the appellants, learned Spl.PP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of

prayer for bail by order dated 24.01.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Court Siwan, in connection with SC/ST

P.S. Case No. 21 of 2021, registered for the alleged offences under Sections 341, 323, 379, 504, 506 and 34 of the Indian Penal Code and Sections 3

(i), (r), (s)/ 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the appellants and the co-accused surrounded the informant and appellant Dhirendra Singh grossly abused him taking his

caste name and hit the informant on his chest with bamboos stick causing injuries to him. Appellant Dhirendra Singh also took away Rs. 13,000/-from

the pocket of the informant the money which belonged to the owner of the tractor, namely, Nagendra Singh and the informant is stated to be its driver.

The learned senior counsel for the appellants submits that the occurrence took place on 19.08.2021 at about 07.30 AM but FIR has been registered at

10.00 AM on 20.08.2021. Meanwhile, the informant went to the hospital and got himself treated and got an injury report from the hospital, all on his

own. Learned senior counsel further submits that the whole occurrence took place as the owner of the tractor, Nagendra Singh as has been named in

the FIR was the then Mukhiya of Bharauli Panchayat and appellant Abhimanyu Singh had been contesting the election for the said post of Mukhiya

and due to this political rivalry the appellant Abhimanyu Singh and the appellant Dhirendra Singh who is a supporter of appellant Abhimanyu Singh,

have been falsely implicated. The said Nagendra Singh also got instituted other cases against the appellants to stop the appellant Abhimanyu Singh

from contesting the ensuing Mukhiya election. Further this case is a counter case as a few days before the appellant Dhirendra Singh filed a case

against Nagendra Singh and others vide Andar P.S. Case No. 151 of 2021 on 17.08.2021. Learned senior counsel further submits that even on the

facts of the case, it is apparent that there has been no repetition of blow and when cognizance has been taken, no cognizance was taken for offence

under Section 307 of IPC. Injury report is also suspect. Thus, it has been submitted on behalf of the appellants that there is strong possibility of false

implication and the appellants are in custody since 30.09.2021 and the charge-sheet has been submitted against them.

Learned Spl. PP opposes the submissions made on behalf of the appellants. She has pointed out that from the impugned order, it is apparent that three ribs of the informant were found fractured and there is specific allegation against the appellants Abhimanyu Singh and Dhirendra Singh that they abused and assaulted the informant.

Having regard to the submissions made hereinabove and considering the fact about previous enmity between the parties and further considering the case and counter case between the appellants' side as well as the informant's side on account of political rivalry and false implication is a strong possibility and also considering the period of their custody, the appellants above named are directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special

Court, Siwan, in connection with SC/ST P.S. Case No. 21 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal

Procedure and also the following conditions :

- (i) The bail bond of the appellants will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the appellants.
- (iii) The appellants will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellants will be liable to be cancelled by the court concerned.

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

The learned trial court is directed to expedite the trial and take immediate steps for framing of the charge.