

(2022) 10 PAT CK 0013

Patna High Court

Case No: Criminal Appeal (SJ) No. 612 Of 2022

Baleshwar Ram

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Oct. 13, 2022

Acts Referred:

- Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 - Section 3(1), 3(2)(va)
- Indian Penal Code, 1860 - Section 34, 307, 379
- Arms Act, 1959 - Section 27

Hon'ble Judges: Alok Kumar Pandey, J

Bench: Single Bench

Advocate: Aryan Sinha, Sadanand Paswan

Final Decision: Allowed

Judgement

Let the defect(s), as pointed out by the office, be removed within a period of our weeks from today.

Heard learned counsel for the appellants and learned Spl. P.P. for the State.

The instant appeal has filed against the order dated 15.01.2022 passed by the Learned Additional District & Sessions Judge 1st cum Special Judge,

Lakhisarai in connection with Halsi Ramgarh Chauk P.S. Case No. 02 of 2022 registered for the offences under Sections 379, 307/34 of the Indian

Penal Code read with Section 27 of the Arms Act and Section 3(1) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 whereby and whereunder the prayer for bail of the appellants was rejected.

As per prosecution case, appellants and others came and abused by caste name and it is further alleged that they made gun firing upon the informant, when the informant's brother Deepak Tanti came to save the informant, appellants and others also fired at informant's brother due to which informant's brother sustained gun shot injury in his leg. They also snatched Rs. 5000/- and a gold chain.

Learned counsel for the appellants submit that appeals are in custody since 03.01.2022. Appellant No. 1 bears one criminal antecedent which is between the same parties and appellant no. 2 bears no criminal antecedent. Charge-sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that appellant no. 1 is named in the F.I.R. and appellant no. 2 is not named in the F.I.R. During the course of investigation in para 8 of the case diary name of the appellant no. 2 has been surfaced in the present case. Appellant No. 2 is a Mason by occupation and accordingly has been assigned for the construction work going on in the house of appellant no. 2

and has falsely been implicated in this case. There is no specific allegation against the present appellants to make firing. Allegations are general and omnibus in nature. Learned counsel further submits that co-accused Pinki Kumari has already been granted bail vide Cr. Appeal (S.J.) No. 681 of 2022 by a co-ordinate bench of this court and the case of present appellant no. 1 stands on similar footing.

Learned Spl. P.P. for the State as well as learned counsel for the informant vehemently opposes the prayer for bail of the present appellants.

Considering the facts and circumstances of the present appeal as well as period of custody, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of the parties and also taking into consideration materials available on record, the order dated 15.01.2022 passed in B.P. No. 68 of 2022 by the learned Additional District & Sessions Judge 1st cum Special Judge,

Lakhisarai is set aside and present appeal is allowed. The appellants are directed to be enlarged on bail in connection with Halsi Ramgarh Chauk P.S.

Case No. 02 of 2022 on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the

learned Additional District & Sessions Judge 1st cum Special Judge, Lakhisarai, subject to following conditions:-

- (i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.
- (ii) Appellants will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.
- (iii) If the appellants tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.