

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.791 of 2016

Arising Out of PS.Case No. -106 Year- 2016 Thana -MOTIHARI MUFASIL District-
EASTCHAMPARAN(MOTIHARI)

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1. Amrendra Singh Son of Rupdeo Singh Resident of village - Basantpur
Babutola, Police Station Motihari Muffasil, District - East Champaran

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar No.-7

For the Respondent/s : Mr. Sri Bipin Kumar

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

4 16-11-2016 Heard learned counsel for the appellant as well as

learned Additional Public Prosecutor appearing for the

respondent-State.

This Cr. Appeal has been preferred u/S 14(A) of
SC/ST (Prevention of Atrocities) Amendment, 2015 against the
order dated 02-07-2016 passed by learned Additional Sessions
Judge-Ist, East Champaran, Motihari by which and whereunder, he
refused to enlarge the appellant on bail in Motihari (Muffasil) P.S.
Case No. 106 of 2016 registered under Section-302 & other minor
sections of the Indian Penal Code as well as Section-3(i)(x) of
SC/ST (Prevention of Atrocities) Act.

The brief fact is that the informant, Mukesh Paswan



gave written report on 23-03-2016 stating therein that while his father namely, Khajana Paswan was sitting at his door, the petitioner and other FIR named accused persons, being armed with lethal weapons, came there and started assaulting him and in that course, co-accused, Anil Singh and Chhotan Singh caught hold of his father whereas; FIR named accused Kundan Singh and Bhim Singh pierced Bhala into his abdomen and, thereafter, FIR named accused Ranvijay Singh and Rajkumar Singh too pierced Bhala into the abdomen of Lalbabu Paswan whereas; accused, Shivam Kumar gave a dagger blow to Sanjay Paswan causing injury on his chest. So far as the appellant is concerned; it is alleged that he assaulted one Bhagya Narayan Paswan causing injury on his head.

On the basis of written report of the informant, Mukesh Paswan, Motihari (Muffasil) P.S. Case No. 106 of 2016 was registered under Section-302 & other minor sections of the Indian Penal Code as well as Section-3(i)(x) of SC/ST (Prevention of Atrocities) Act. After institution of the present case, formal FIR was drawn up and subsequently, the appellant was remanded in the case on 24-03-2016 and prayed for bail but the learned Ist Additional Sessions Judge, Motihari, East Champaran, exercising the power of Special Judge, rejected the prayer for bail of the appellant and thereafter, the appellant came before this court by

filing a petition u/S 439 of the Code of Criminal Procedure vide Cr. Misc. Mo. 34478 of 2016 which was subsequently withdrawn with permission to file Cr. Appeal in accordance with the new Amendment of SC/ST (Prevention of Atrocities) Act and, accordingly, this Cr. Appeal came up before this bench for hearing.

Learned counsel, appearing for the appellant challenged the impugned order dated 02-07-2016 and submitted that in course of investigation, so-called injured Bhagya Narayan Paswan was not examined by the investigating officer u/S 161 of the Cr.P.C. nor the concerned I.O. took any pain to obtain the injury report of above-said so-called injured, Bhagya Narayan Paswan but the learned Ist Additional Sessions Judge without paying any heed towards the above-said fact, rejected the prayer for bail of the appellant. It is further submitted that the impugned order is a perverse order, which is not liable to be sustained in the eye of law. It is further contended that the written report of the informant goes to show that the petitioner did not even touch the body of the deceased and, therefore, the petitioner is entitled to get the privilege of bail. It is further submitted that so far as application of provisions of SC/ST (Prevention of Atrocities) Act are concerned; the same are not applicable in the present case

because there is nothing on the record to show that the appellant humiliated or insulted the informant as well as others due to their caste.

On the other hand, learned Additional Public Prosecutor having gone through the case diary, fairly conceded this fact that the statement of the injured Bhagya Narayan Paswan has not been recorded by the I.O. in course of investigation nor the concerned I.O. has brought the injury report of the aforesaid injured on the case diary.

Having heard both the parties, I, too, went through the case diary and find that the statement of injured Bhagya Narayan Paswan has not been recorded by the I.O. u/S 161 of the Cr. P.C. nor there is any injury report of the aforesaid injured and, therefore, in absence of statement as well as injury report of the aforesaid injured, the allegation levelled against the appellant appears to be doubtful.

Considering the aforesaid facts and circumstances as well as submission of the parties, this Cr. Appeal is allowed and, accordingly, the impugned order dated 02-07-2016 passed by the learned Ist Additional Sessions Judge, Motihari, East Champaran stands set aside and the appellant named above, is directed to be released on bail on furnishing bail bond of Rs.

10,000/- (ten thousand) with two sureties of the like amount each in connection with Motihari (Muffasil) P.S. Case No. 106 of 2016 to the satisfaction of learned Additional District & Sessions Judge-Ist, Motihari, East Champaran.

(Hemant Kumar Srivastava, J)

A.K.V./-

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