

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.13 of 2017

Arising Out of PS.Case No. -436 Year- 2016 Thana -MUZAFFARPUR SADAR District-
MUZAFFARPUR

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Birendra Paswan son of Heera Paswan, R/O Village Dumari, PS-Sadar,
Distt-Muzaffarpur.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar @ S.K., Adv

For the Respondent/s : Mr. Binay Krishna, SPP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

7 02-05-2017 Heard learned counsel for the appellant as well as
learned SPP for the State.

Driver of a tractor was manhandled as Shila Devi was dashed against, whereupon, the deceased, owner of the vehicle was called upon and after his arrival, the persons so named therein including the appellant surrounded him and at the instant of Renu Devi and Golu Kumar, they lifted the deceased inside the house of Shila Devi where he was brutally assaulted, during course thereof, Umesh Paswan gave a sickle blow over back of the neck of deceased and Mahesh Paswan also gave a sickle blow over his leg. Sunil Paswan took out Rs. 20,000/-from the pocket of deceased. Even thereafter, the deceased was assaulted which ultimately cost his life.

It has been submitted on behalf of appellant that he also



happens to be a member of Scheduled Caste, on account thereof, there would not be application of SC/ST (POA) Act. It has also been submitted that there happens to be omnibus allegation. Furthermore, postmortem report did not corroborate the manner of occurrence. Consequent thereupon, it happens to be a fit case whereunder appellant should be allowed anticipatory bail.

Learned Special P.P. opposed the prayer and submitted that the manner whereunder deceased was lifted and taken away inside the house of Shila Devi where he was done to death, is indicative of the fact that all the members of unlawful assembly were adamant to do away with the life of the deceased, otherwise the deceased would not have been taken inside the house of Shila Devi.

Considering the nature of allegation, the appeal is dismissed.

(Aditya Kumar Trivedi, J)

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