

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.763 of 2017

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

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1. Rajesh Kumar @ Rajesh Paswan @ Hadiya Son of Mahesh Paswan
2. Rakesh Kumar Son of Mahesh Paswan Both resident of Mohalla-
sMajhauria, P.S.- Sadar, District- Muzaffarpur.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Ganesh Prasad Singh

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI
ORAL ORDER

4 03-05-2017 Heard learned counsel for the appellants as well as
learned Special P.P.

Appellants Rajesh Kumar @ Rajesh Paswan @
Hadiya and Rakesh Kumar have filed instant appeal in terms of
Section 14A (2) of the Scheduled Caste and Scheduled Tribe
(Prevention of Atrocities) Act against an order dated 16.12.2016
passed by the Additional Sessions Judge-3rd, Muzaffarpur in
connection with A.B.P. 49 of 2016 relating to Muzaffarpur Sadar
P.S. Case No. 436 of 2016 whereby and wehreunder prayer for
anticipatory bail made on behalf of the appellants has been
rejected.

Learned counsel for the appellants has submitted



that the impugned order happens to be bad in the background of the fact that the learned lower Court failed to consider that the appellants being member of Scheduled Caste could not be prosecuted under the provisions of SC/ ST (Prevention of Atrocities) Act and that being so, the prescription having been provided under Section 18 thereof, would not attract against them. That being so, the prayer for anticipatory bail is maintainable. It has also been submitted that now coming to the facts of the case, it is evident that no specific allegation has been attributed against the appellants and further the nature of occurrence as projected would clearly suggest the possibility of false implication.

That being so, carrying omnibus allegation, appellants should be allowed privilege of anticipatory bail.

On the other hand, the learned Special P.P. opposed the prayer and submitted that the manner whereunder the deceased was done to death, did not attract grant of anticipatory bail, on account of dashing against one Sheela Devi by a tractor, the tractor driver was intercepted by the villagers, whereupon he called his master Santosh Choudhary who came along with Rs. 20,000/-. Just after arrival at the residence of Sheela Devi, on an instigation of accused Vinod Kumar Singh, Renu Devi and Golu Kumar, both the appellants including other accused lifted the



deceased Santosh Choudhary and took him to the house of Sheela Devi where he was brutally assaulted and thereafter Umesh Paswan gave *Hasuli* blow over his neck while Mahesh Paswan gave Hasuli blow over his leg. Sunil Paswan took away Rs. 20,000/-. Subsequent thereof, again deceased was assaulted as a result of which he died instantaneously.

The manner whereunder deceased Santosh Choudhary was lifted and taken inside the house of Sheela Devi and further met with his death on account of assault, is indicative of the fact that the deceased died in gruesome manner.

Consequent thereupon, the prayer for anticipatory bail did not find favour whereupon instant appeal is accordingly, rejected.

(Aditya Kumar Trivedi, J)

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