

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.839 of 2019

Arising Out of PS. Case No.-537 Year-2018 Thana- MOHANIYA District- Kaimur (Bhabua)

MD. JAMIL KHAN @ JAMIL KHAN Son of Murtuja Khan, Resident of
village-Mohania, Ward No.11, P.S.-Mohania, District-Kaimur at
Bhabua..... Appellant/s

Versus

THE STATE OF BIHAR..... Respondent/s

Appearance :

For the Appellant/s : Mr.Rajani Kant Pandey

For the Respondent/s : Mr.Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date : 10-05-2019

1. Heard learned counsel for the appellant and learned
Spl. P.P. for the State.

2. This is an appeal under Section 14 (A) (1) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act against the refusal of prayer for bail vide order dated
6.10.2018 passed by learned Additional Sessions Judge-1st-cum-
Spl. Judge, SC/ST (Prevention of Atrocities) Act, Kaimur at
Bhabua in Mohania P.S. Case No. 537 of 2018 registered under
Sections 341, 323, 307, 325, 504, 34 of the Indian Penal Code and
also under Section 3 (1) (r) (s) of the Scheduled Caste and
Scheduled Tribes (Prevention of Atrocities) Act.

3. As per the prosecution case appellant and co-accused
Sonu Khan were taking liquor on the roof of the Rajendra Pasi. On
protest made by him they started assaulting him by means of legs



and fists and on intervention of the occurrence by the younger brother of the informant namely Prakash Baitha, both appellant and Sonu Khan assaulted on the waist and nose of the Prakash Baitha by means of brick and stones and made him injured. Said injured was admitted to the hospital but he succumbed to injury during course of treatment.

4. It is submitted by the learned counsel for the appellant that no such occurrence as alleged ever took place. As a matter of fact, the deceased was taking liquor on the roof and fell down from the roof and sustained head injury which proved fatal. The allegation levelled against the appellant is not specific rather general and omnibus in nature. Though, the accused persons are said to have assaulted the deceased by means of brick and stones on his waist and nose but doctor has found only one injury on his head. The assailant of aforesaid injury is not ascertained. Appellant has been languishing in custody since 17.9.2018. Similarly, situated co-accused namely Md. Sonu Khan @ Sonu Khan has been enlarged on bail by co-ordinate Bench of this Court in CR. Appeal (SJ) No. 660 of 2019 vide order dated 07.03.2019.

5. Learned Spl. P.P. for the State opposed the prayer for bail.



6. In the facts and circumstances of the case, the above named appellant is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1st- cum- Special Judge, Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, Kaimur at Bhabua in connection with Mohania P.S. Case No. 537 of 2018 (SC/ST Reg No. 157 of 2018) with following conditions:-

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Appellant shall co-operate in the trial and shall remain physically present on each and every date fixed in the case and on his absence on two consecutive dates without genuine reason to the satisfaction of the Court below, his bail bond shall be cancelled by the Court below.

(iii) If the Appellant tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the Appellant.



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

(Prakash Chandra Jaiswal, J)

T.Kr./-

AFR/NAFR	NAFR
CAV DATE	NA
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