

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2013 of 2019

Arising Out of PS. Case No.-313 Year-2015 Thana- BARAUNI District- Begusarai

MANISH KUMAR Son of Gopal Singh Resident of Village- Rampur, Police
Station- Suryagadha, District- Lakhisarai.

... .. Appellant/s

Versus

The State of Bihar. Respondent/s

Appearance :

For the Appellant/s : Mr. Jai Shanker Prasad
For the Respondent/s : Mr. Sadanand Paswan

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

ORAL ORDER

4 22-07-2019 Heard learned counsel for the appellant and
learned Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 04.02.2019 passed by learned Special Judge SC/ST Act, Begusarai in connection with Barauni (Chakia) P.S. Case No. 313 of 2015 registered under Section 302 & 201/34 of the Indian Penal Code and Section 3(2) (v) (vi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

While the brother of the informant, namely, Birju Paswan was proceeding to witness the worship of Raja Salesh Puja in the village Simaria Sisbanni, the appellant along with



two other named accused persons started slating and assaulting him and resorted two round firing. They took him to the bank of the river Ganga thereafter his brother is missing. The eye witness Dharo Paswan was extended threatening of dire consequence in case of disclosure of the occurrence.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in the case by the witnesses Dharo Paswan and Ranjan Paswan due to animosity. Appellant has no concern with the aforesaid occurrence. He happens to be the resident of village Rampur P.S. Suryagadha, District Lakhisarai and has no concern with the rest of the accused persons. The allegation levelled against the appellant is not specific rather general and omnibus in nature. Co-accused Rupesh Kumar in his confessional statement has divulged the factum of commission of murder of deceased by strangulating his neck by rope along with other accused persons but the I.O. has found blood and bloodstained Lungi of co-accused Alok Kumar from the field in the vicinity of the place of the occurrence. I.O. has not seized any cartridge at the place of occurrence. Contradiction between the said confessional statement and the aforesaid aspect of the case



creates serious doubt about the prosecution case. Moreover, the aforesaid statement made by the co-accused has no evidentiary value in the eye of law. The dead body of the deceased has not been recovered, hence the cause of death could not be ascertained. Appellant has been languishing in custody since 15.11.2018.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the above named appellant is directed to be released on bail 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 Special Judge SC/ST Act, Begusarai in connection with Barauni (Chakia) P.S. Case No. 313 of 2015.

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

(Prakash Chandra Jaiswal, J)

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