

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2443 of 2019

Arising Out of PS. Case No.-27 Year-2019 Thana- RAHUI District- Nalanda

=====

NARESH KUMAR @ NARESH YADAV Son of Beni Yadav Resident of
Village - Ora, P.S.- Rahui, District - Nalanda.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Ritesh Kumar

For the Respondent/s : Mr.Binay Krishna

=====

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

ORAL ORDER

7 20-08-2019 Heard learned counsel for the appellant and
learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the SC/ST Act against the refusal of prayer for bail vide order dated 18.04.2019 passed by learned 1st Addl. District and Sessions Judge cum Special Judge, SC/ST Act, Nalanda at Biharsharif in Rahui P.S. Case No. 27 of 2019 registered under Sections 147, 149, 504, 506 and 302 of the Indian Penal Code and Sections 3(i)(r)(s) and 3(v) of the SC/ST Act.

Appellant along with six other named accused persons and 6-7 unknown miscreants are said to have assaulted the brother of the informant by means of lathi and gun over dispute of fare of tempo who succumbed to his injury.



It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case merely because he had lodged Rahui P.S. Case No. 21 of 2019 against the brother of the informant and others nine days preceding to the alleged occurrence. As a matter of fact, deceased was eliminated at some other place and at some different point of time by some other persons. The occurrence is said to be of 6 A.M. in the morning, but the doctor has found undigested food particles in the stomach of the deceased and he has also assessed the time since death of the deceased to be within 36 hours though the post mortem of the deceased was conducted within ten hours of the occurrence which goes to rule out the prosecution case. The allegation levelled against the appellant is not specific rather general and omnibus in nature. Appellant has no criminal antecedent and has been languishing in custody since 04.02.2019. Similarly situated co-accused, namely, Beni Yadav and Nitish Yadav have been enlarged on anticipatory bail by a co-ordinate bench of this court vide order dated 22.05.2019 passed in Cr. Appeal (SJ) No.1738 of 2019 while Raju Yadav has been enlarged on anticipatory bail by this Court vide order dated 31.07.2019 passed in Cr. Appeal (SJ) No. 2850 of 2019.



On the other hand, learned Spl. PP for the State and learned counsel for the informant opposing the bail petition submitted that the appellant along with other accused persons have committed murder of the deceased by assaulting him by means of lathi and gun and informant happens to be eye witness of the occurrence. Hence the appellant does not deserve bail.

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 1st Addl. Sessions Judge cum Special Judge, SC/ST Act, Nalanda at Bihar Sharif in connection with Rahui P.S. Case No. 27 of 2019.

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

(Prakash Chandra Jaiswal, J)

mantreshwar/-

U		T	
---	--	---	--

