

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2650 of 2019

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

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Basant Kumar Son of Kailash Paswan Resident of Village-Simaria, Shisbana
Tola, P.S.-Barauni (Chakiya), District-Begusarai.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Randhir Kumar No.1

For the Respondent/s : Mr. Binay Krishna

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

ORAL ORDER

4 25-07-2019 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 01.05.2019 passed by learned Special Judge SC/ST (POA)
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, three named accused persons started slating and assaulting him and resorted two rounds of 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. He is not named in the FIR. Dharo Paswan and Ranjan Paswan, who claimed themselves to be eyewitness of the occurrence have not named the appellant in the occurrence. The name of the appellant has surfaced only on the basis of confessional statement of co-accused Rupesh Kumar which is not admissible in the evidence against the appellant. Moreover, said 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. 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. One co-accused, namely, Manish Kumar has been enlarged on bail by this Court vide order dated 22.07.2019 passed in Cr. Appeal (SJ) No. 2013 of 2019

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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