

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2693 of 2019**

Arising Out of PS. Case No.-130 Year-2018 Thana- CHENARI District- Rohtas

Sahban Ansari, aged about 20 years, male, Son of Mohamad Hussain Ansari,
Resident of Village - Pewandi, P.S.- Chenari, Dist.- Rohtas (Sasaram).

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Mukesh Kumar-Advocate
For the Respondent : Mr. Sadanand Paswan-S.P.P.

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

16-11-2019

Heard learned counsel for the appellant as well as
learned Special Public Prosecutor.

2. This appeal under Section 14-A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') has been filed by the appellant challenging the order dated 29.03.2019 passed in Registration No.175 of 2018 arising out of Chenari P. S. Case No.130 of 2018 registered inter alia under Section 302 of the Indian Penal Code and Section 3(2)(v) of the Act by the learned Additional Sessions Judge-1st-cum-Special Judge (SC/ST POA Act), Rohtas at Sasaram whereby he has rejected the application for grant of pre-arrest bail of the appellant.

3. The allegation in the first information report, which is based on the written report of one Narendra Paswan is



that on 04.06.2018 the appellant along with Sonu Sharma and 2-3 unknown persons assaulted him at Chenari Bazar for which a case was registered at Chenari Police Station. On account of the said enmity, the appellant along with Sonu Sharma, Pankaj Mishra, Rahish Ansari and Vikky Tiwary conspired together and on 07.06.2018 at 8.00 P.M. in the night, killed his brother Harendra Paswan by assaulting him with lathi, danda and sharp cutting weapon near south of Malhar School at Chenari Kudra road while he was returning from his sister's house on a motorcycle.

4. The prayer for grant of pre-arrest bail has been rejected by the learned Special Judge after taking into consideration the allegations made in the first information report and the materials collected in course of investigation.

5. Learned counsel appearing for the appellant submitted that it is a case of false implication on account of previous enmity. As a matter of fact, the alleged victim died in a road accident. The said fact would also be corroborated from a subsequent F.I.R. registered by the police vide Chenari P. S. Case No.131 of 2018 dated 08.06.2018 on the basis of self-statement of the Officer-in-Charge of Chenari Police Station. He has further contended that co-accused Sonu Sharma having



identical allegation has been granted pre-arrest bail by a Bench of this Court while setting aside the order passed by the learned Special Judge, S.C./S.T., Rohtas at Sasaram.

6. Per contra, learned counsel appearing for the State submitted that there is allegation against the appellant and others to have assaulted the brother of the informant with lathi, danda and sharp cutting weapon as a result of which he died instantaneously. The materials collected in course of investigation do not suggest that the death of the victim occurred in road accident. He has further contended that in view of Section 18 of the Act, an application for grant of pre-arrest bail would not be maintainable.

7. He has also drawn my attention towards the order impugned wherein it is stated that this court has rejected the prayer for grant of pre-arrest bail of co-accused Pankaj Mishra. On perusal of the record, I find that the appeal seeking pre-arrest bail of co-accused Pankaj Mishra was rejected by this court on 03.01.2019 whereas the pre-arrest bail of co-accused Sonu Sharma was allowed on 25.01.2019. Further, from perusal of the order dated 25.01.2019, I find that the fact that pre-arrest bail of co-accused Pankaj Mishra was already rejected, was not brought to the notice of the Bench, while hearing the application



of co-accused Sonu Sharma.

8. Regard being had to the entirety of the facts as also keeping in mind the statutory provisions prescribed under Section 18 of the Act, I do not find any reason to differ with the order passed by the court below. The appeal lacks merit.

9. It is dismissed, accordingly.

10. However, the petitioner would be at liberty to appear before the Court and seek bail. In case, an application for bail is filed, the same shall be considered on merits without being prejudiced in any manner by this order.

(Ashwani Kumar Singh, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.11.2019
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