

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.54 of 2020

Arising Out of PS. Case No.-149 Year-2019 Thana- MADHUBAN District- East Champaran

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Pramod Sah Son of Kishori Sah Resident of Village - Talimpur, P.S.-
Madhuban, Distt - East Champaran.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr. Binod Kumar Singh, Adv.

For the Respondent/s : Mr. Sadanand Paswan. Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 18-09-2020

Heard Mr. Binod Kumar Singh, learned counsel for
the appellant and Mr. Sadanand Paswan, Spl. P.P. for the State.

2. This appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been preferred by the appellant challenging the order dated 13.12.2019 passed by the learned Special Judge, SC/ST Act, East Champaran at Motihari in connection with Madhuban P.S. Case No. 149 of 2019 registered under Sections 341, 323, 324, 307, 302, 354-B, 504, 506/34 of the Indian Penal Code, Sections 3(1) (r) (s) and 3(2) (v) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, by which he has rejected the prayer for bail of the appellant.

3. It is submitted by the learned counsel appearing for



the appellant that the court below has failed to appreciate the materials on record in correct perspective. He contended that the alleged incident of occurrence as per the prosecution case itself took place on 07.07.2019 at about 05:00 p.m., but the information pursuant to which the FIR was registered, was given to the police after three days on 10.07.2019. There is no reasonable explanation for the undue delay caused in reporting the matter to the police. He further contended that the delay caused in institution of the FIR has resulted into improvement, embellishment, concoction and fabrication of the false case against the appellant. He contended that there is omnibus and general allegation against the appellant and the specific case of the prosecution is that upon the order of co-accused Bishu Sah, his son Sanjay Sah and Sambhu Sah assaulted the husband of the informant with iron rod as a result of which he became unconscious and, in course of treatment, he died after three days.

4. Opposing the prayer for bail, Mr. Sadanand Paswan, learned counsel appearing for the State submitted that the delay in institution of the FIR was caused as the informant was busy in treatment of her husband, who was seriously injured. According to him, the delay has not resulted in any



concoction or fabrication of the prosecution case. He, however, admitted that in the first information report, specific allegation of assault is confined against the two sons of Bishu Sah, namely, Sanjay Sah and Sambhu Sah.

5. Having heard the parties and perused the materials on record, I am of the opinion that in view of the inordinate delay caused in reporting the matter to the police, the court below ought to have granted bail to the appellant.

6. In that view of the matter, the impugned order dated 13.12.2019 passed by the learned Special Judge, SC/ST Act, East Champaran at Motihari cannot be upheld. Accordingly, the same is set aside.

7. The appeal stands allowed.

8. The 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, East Champaran at Motihari in connection with Madhuban P.S. Case No. 149 of 2019.

9. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-



- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my email by the Sr. Secretary.
- (ii) The corrected copy of the order shall be transmitted by me from my email id to the Sr. Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let a copy of the order be sent to Mr. Binod Kumar Singh, learned counsel for the appellant also on his email.
- (v) Let steps be taken by the Sr. Secretary/registry for uploading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22-09-2020
Transmission Date	22-09-2020

