

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 1169 of 2020**

Arising Out of PS. Case No.-498 Year-2014 Thana- BIHTA District- Patna

SUNIL RAI @ SUNIL KUMAR Son of Rajdeo Rai Resident of Village -
Neuri, P.S.- Bihta, District - Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr Jharkhandi Upadhyay, Advocate
For the Respondent/s : Ms Usha Kumari 1, Special PP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

3 29-06-2020 As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

Heard learned counsel for the appellant and the learned Special PP for the State.

The appellant has preferred the present Appeal under Section 14 - A (2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity, *SC/ST Act*) against the refusal of his prayer for regular bail vide order dated



29.04.2015 passed by Additional Sessions Judge I -cum- Special Judge, SC/ST Act, Danapur in a case registered under Sections 302/34 of Indian Penal Code and Sections 3 (2) (V) (X) of SC/ST Act in connection with Bihta Police Station (for brevity, *PS*) Case No 498 of 2014/Special Case No 50 of 2015.

Based on a dispute regarding planting of *Sheesham* tree on the lands of the informant, a dispute arose between informant's mother and the instant appellant along with other named accused persons, namely, Rajdeo Rai, Surendra Rai and Umesh Rai. It is alleged that appellant has assaulted informant's mother with a spade repeatedly crushing her head.

Appellant's counsel submits that the other accused persons have been enlarged on bail earlier. Even, as per the prosecution case, the informant, witness Maro Devi and witness Munee Devi have arrived at the place of occurrence after the assault. Their descriptive deposition of the manner of occurrence, therefore, is not sustainable. The appellant, having no criminal antecedent, is in custody since 27.07.2014, i e, about six years. The post mortem report of deceased also does not corroborate the manner of assault since the same has revealed two sharp cut wounds and one lacerated injury. There is no report of the skull being crushed. It is further submitted



that other than submission of charge sheet for the last six years, there is no progress in trial.

Learned Special PP for the State has opposed the prayer for bail. She has submitted that the appellant is accused of having inflicted the fatal injury.

Considering the rival submissions, this appeal is allowed. The impugned order dated 29.04.2015 passed by Additional Sessions Judge I -cum- Special Judge, SC/ST Act, Danapur in connection with Bihta PS Case No 498 of 2014/Special Case No 50 of 2015 is set aside.

Let the appellant above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge I -cum- Special Judge, SC/ST Act, Danapur in Bihta Police Station Case No 498 of 2014/Special Case No 50 of 2015 subject to the following conditions:

(1) That one of the bailors will be a close relative of the appellants who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(2) That the appellant will be well represented on



each date and if he fails to do so on two consecutive dates, his
bail will be liable to be cancelled.

(Madhuresh Prasad, J)

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