

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1746 of 2020**

Arising Out of PS. Case No.-438 Year-2019 Thana- HILSA District- Nalanda

Ballam Prasad S/o Chandeshwar Prasad Resident of Village- Kamta, P.S.-
Hilsa, District-Nalanda.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rewti Kant Raman, Adv.
For the Respondent/s : Mr. Dinesh Singh, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

2 26-11-2020 Heard learned counsel for the appellant, learned
Spl.P.P. for the State and learned counsel for the informant
through video conferencing.

The instant appeal has been preferred against the order dated 5.3.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Court, SC/ST (Prevention of Atrocities) Act, Nalanda at Biharsharif whereby the prayer for bail of the appellant in connection with Hilsa P.S. Case No.438 of 2019 registered under sections 302 and 34 of the Indian Penal Code and section 3(i)(r)(s) and section 3(ii)(v)(va) of the SC/ST (Prevention of Atrocities) Act, was rejected.

As per allegation in the F.I.R., the accused persons including the appellant herein as also one Manish Kumar and Shankar Kahar are stated to have come and started abusing the



informant. On the informant asking them not to abuse they started to assault him as a result of which he sustained injuries. As it was late in the night he did not get himself treated and the next morning at about 10 am he died.

It is submitted by learned counsel for the appellant that from perusal of the F.I.R. itself it would be evident that the allegation against the appellant as also the other accused persons are general and omnibus in nature. Co-accused Manish Kumar and Shankar Kahar have been enlarged on bail vide order dated 29.6.2020 (Annexure-2) passed in Cr. Appeal No.1270 of 2020. It is submitted that the case of the appellant stands on a similar footing to that of the other co-accused who have been enlarged on bail. With respect to the paragraphs of the case diary mentioned in the order of the learned Court below, it is submitted that the allegations even as contained therein are general and omnibus which could be evident from the perusal of the order dated 29.6.2020. The appellant is in custody since 23.1.2020 and the investigation in the case has concluded. He has no criminal antecedent.

The appeal is opposed by learned Spl.P.P. for the State.

Having heard learned counsel for the parties and



taking into consideration the allegations as levelled in the F.I.R., grant of bail to the other co-accused vide order contained in Annexure-2 as also the appellant being in custody since 23.1.2020, the Court is inclined to allow the appeal. The appeal is allowed and the order dated 5.3.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Court, SC/ST (Prevention of Atrocities) Act, Nalanda at Biharsharif, is set aside.

The appellant is directed to be enlarged on bail in connection with Hilsa P.S. Case No. 438 of 2019 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 1st Additional Sessions Judge, Nalanda at Biharsharif.

(Partha Sarthy, J)

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