

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5538 of 2019**

Arising Out of PS. Case No.-57 Year-2013 Thana- BAHADURPUR District- Darbhanga

MD. JUNAID SHAH @ JUNAID SAH S/o Md. Jabbar Shah @ Abdul Zafar
R/o village- Purkhopatti, P.S.- Bahadurpur, Distt.- Darbhanga

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : M/s P.K.Shahi, Sr. Advocate
Mukesh Kumar

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

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

5 07-07-2020 Heard Mr. P.K.Shahi, learned senior counsel appearing for the appellant as well as Mr. Sadanand Paswan, learned Special Public Prosecutor for the State through video conferencing.

This criminal appeal has been preferred under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 against the order dated 6.7.2019 passed by the learned 1st Additional Sessions Judge – cum – Special Judge, SC/ST Act, Darbhanga in S.C./S.T. Case No. 241/2017 (arising out of Bahadurpur P.S. Case No. 57 of 2013) by which and whereunder the learned Special Judge refused to enlarge the appellant on bail.



The above stated Bahadurpur P.S. Case No. 57 of 2013 was registered on the basis of written report given by informant Ramdai Devi who claimed in her written report that the appellant and other four FIR named accused badly assaulted to her and others by means of lathi and iron rod. She, further, claimed in written report that the appellant gave one rod blow causing head injury to her.

Learned counsel appearing for appellant submits that the written report of informant goes to show that the allegation of assault to the deceased is general and omnibus against appellant as well as other FIR named accused and so far as the allegation of assault to the informant is concerned, the informant has sustained simple injury, which is evident from the relevant paragraph of the case diary. He, further, points out that according to the claim of informant, altogether, 5 persons assaulted the deceased but the postmortem report of the deceased goes to show that only two injuries were found on the person of the deceased. He, further, submits that, no doubt, prior to institution of the present case, altogether, five cases were lodged against the appellant but, as a matter of fact, all the cases were instituted either by the informant or her relatives. He, further, points out that at para 28 of the case



diary, the statement of father of the deceased was recorded and the father of the deceased, clearly, stated that deceased had made his statement prior to his death but it is surprising enough that the police did not bring the statement of the deceased in case diary.

On the other hand, learned Spl. P.P. opposed the prayer pointing out that there is allegation of assault against the appellant and, moreover, the appellant is habitual criminal.

In view of the aforesaid facts and circumstances as well as submissions of the parties and also taking note of the fact that the appellant is languishing in jail custody for near about one year, in my view, this appeal should be allowed and accordingly, this criminal appeal is allowed and, the impugned order dated 6.7.2019 passed by the learned 1st Additional Sessions Judge – cum – Special Judge, SC/ST Act, Darbhanga, in S.C. & S.T. Case No. 241/2019 (arising out of Bahadurpur P.S. Case No. 57 of 2013) is, hereby, set aside.

The above named appellant is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge – cum – Special Judge, SC/ST Act, Darbhanga, in connection with



S.C./S.T. Case No. 241/2017 (arising out of Bahadurpur P.S.
Case No. 57 of 2013).

(Hemant Kumar Srivastava, J)

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