

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1039 of 2021

Arising Out of PS. Case No.-82 Year-2020 Thana- SALAKHUA District- Saharsa

NITISH KUMAR SON OF DINESH YADAV R/O VILLAGE-GORIYARI,
P.S.-SALKHUA, DISTRICT-SAHARSA.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Kumar Sinha, Adv.
For the Respondent/s : Mr. Binay Krishna, SPP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 22-06-2021 Heard Mr. Binod Kumar Sinha, learned counsel for the appellant and Mr. Binay Krishna, Special Public Prosecutor for the State through video conferencing.

2. The present appeal is directed against order dated 02.11.2020 passed by Additional Sessions Judge-III-cum-Special Judge, Saharsa in Special Case No. 79/2020 arising out of Salkhua PS Case No. 82/2020 for the offence registered under Sections 341, 323, 324, 307, 379, 427, 354, 504, 506, 34 of the IPC, subsequently Section 302 IPC was also added, and Section Section 3(i)(r) (S), 3(2) va of SC/ST Act, whereby regular bail application of the appellant has been rejected.

3. The prosecution story, in brief, is that appellant along with other named accused persons including 25 to 30 unknown persons arrived at the house of informant, ransacked his house and assaulted the son of the informant and also assaulted the neighbours



of the informant, namely, Birbal Sharma and Jallar Sharma and during course of the treatment, Birbal Sharma died.

4. Learned counsel for the appellant submits that from perusal of the First Informant Report, it would be evident that the allegation against the appellant is general and omnibus in nature and there is specific allegation against named accused, Ashish Kumar who allegedly, assaulted the son of the informant. Learned counsel further submits that co-accused, Ashish Kumar has been granted bail in Cr. Appeal (SJ) No. 1121/2021. Learned counsel next submits that during course of investigation in para-64 and 65 of the case diary, the statement of father and brother of the deceased, Birbal Sharma have been recorded and from perusal of the same, it would be evident that they have specifically stated that the co-accused namely, Pankaj Yadav, Pravesh Yadav and Robin Yadav who are not named in the FIR had assaulted the deceased, Birbal Sharma by means of Lathi.

5. Having regard to the submissions made by the parties and taking into consideration the material on record and the fact that co-accused, Ashish Kumar having similar allegation, has been granted bail by a co-ordinate Bench of this Court, I am inclined to grant bail to the appellant. Accordingly, the present appeal is allowed, setting aside the order dated 02.11.2020 passed by Additional Sessions Judge-III-cum-Special Judge, Saharsa

6. Accordingly, during pendency of this appeal, let the appellant, NITISH KUMAR 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 Additional Sessions Judge-III-cum-Special Judge, Saharsa in Special Case No. 79/2020 arising out of Salkhua PS Case No. 82/2020.

7. It is made clear that at the time of furnishing bail bonds, all the parties shall follow the guidelines of social/physical distancing and sporting masks.

(Anil Kumar Sinha, J)

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