

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1121 of 2021**

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

Ashish Kumar aged about 22 years Son Of Dinesh Yadav R/O village-
Goriyari, P.S.- Salkhua, Distt.- Saharsa

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr.Binod Kumar Sinha, Advocate
For the Respondent : Usha Kumari, Addl Public Prosecutor

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

3 04-05-2021 This matter is taken up for consideration through
Video Conferencing.

Heard learned counsel for the appellant and the State.

The present appeal is directed against the order dated 22.9.2020, passed by learned Additional Sessions Judge III cum Special Judge, Saharsa in a case registered for the offence punishable under Sections 307/302/34 and other allied sections of the Indian Penal Code and Section 3 (1) (r) (s) 3(2) va of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby regular bail of the appellant has been rejected.

As per the prosecution case, on 22.3.2020 the FIR named accused persons including the appellant as well as 25 to 30 unknown persons went to the house of the informant and



started abusing the informant and his family members. In the meantime, they started assaulting the informant. Appellant assaulted informant's son by butt of the rifle as a result of which he sustained head injury. On protest, accused persons also assaulted informant's neighbour Birbal Sharma and Jallar Sharma. In course of treatment, injured Birbal Sharma succumbed to the injuries.

Learned counsel for the appellant submits that there is general and omnibus allegation against the appellant and at best he has been alleged to have assaulted informant's son and not the deceased. During course of investigation, in paragraphs 64 and 65 of the case diary, brother and father of the deceased have specifically stated that co-accused Pankaj Yadav, Pervesh Yadav and Robin Yadav had assaulted the deceased by means of lathi. Appellant has got clean antecedent and he is in custody since 17.8.2020 and Charge sheet has already been submitted.

Learned counsel for the state on the other hand opposes the prayer for bail and submit that the appellant also participated in the alleged occurrence.

Considering the facts and circumstances of the case and the fact that there is general and omnibus allegation against the FIR named accused persons including the appellant as well



as 25 to 30 unknown persons of assaulting the deceased coupled with the fact that the appellant has got clean antecedent and he is in custody since 17.8.2020, this appeal is allowed and the impugned order dated 22.9.2020 is set aside.

Accordingly, let the appellant, above named, 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 Salkhua Police Station Case No. 82 of 2020/Special case no. 79 of 2020.

(Prabhat Kumar Singh, J)

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