

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.1664 of 2021**

Arising Out of PS. Case No.-99 Year-2020 Thana- NAUTAN District- Siwan

Ajay Chauhan, Son Of Lal Bahadur Chauhan @ Lal Babu Mahto Resident Of
Village- Galimapur, P.S.- Nautan, District- Siwan

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Bijay Prakash Singh, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 16-07-2021 Heard learned Senior Counsel for the appellant and

Mr. Sadanand Paswan, learned Special Public Prosecutor for the

State.

The appellant, in the present case, is seeking setting
aside the order dated 06.01.2021 passed by learned 1st
Additional District & Sessions Judge – cum – Special Judge,
Siwan in connection with Nautan P.S. Case No. 99 of 2020
registered for the offence under Section 147, 148, 149, 341, 354,
307, 302, 504, 506, 509 of the Indian Penal Code and Section
3(2)(v) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989.

Learned counsel for the appellant submits that as per
the prosecution story this appellant along with other accused
had assaulted the informant and other members of the



prosecution party. One of the members of the prosecution party namely Parmendra Sharma was allegedly assaulted by all the accused persons by Lathi, Danda, Sword and Farsa. It is alleged that the appellant Ajay Chauhan and co-accused Lal Bahadur Chauhan were handed over a Sword by the co-accused Munni Kumar and Ravita @ Jhunni from which they attacked Parmendra Sharma (since deceased) on his head and caused injuries, whereupon he fell down.

Learned counsel for the appellant submits that so far as the appellant namely, Ajay Chauhan is concerned, the allegation against him is that of giving assault by a Sword on the head of the deceased and the same allegation is against co-accused Lal Bahadur Chauhan but the post-mortem report of Parmendra Sharma would show that he had suffered lacerated wounds on mid head, lacerated wound of left side of forehead of size 1"x1/4" x superficial skin. Other injuries found on his body were either on the shoulder or on non-vital part of the body. The Doctors have opined that all the injuries have been caused by hard and blunt objects. It is, thus his submission that as per the prosecution story when there are co-accused having Lathi, Danda and iron rod and there are allegations that all of them had indulged in the assault, the injuries noticed by the doctors vis-a-



vis the weapon attributed to them cannot be the Sword. The appellant has one criminal antecedent and in the said case he is on bail.

Mr. Sadanand Paswan, learned Special Public Prosecutor for the State has though opposed the prayer for regular bail of the appellant but after going through the materials available in the case diary, learned Spl. P.P. accepts that the injuries noticed in the post-mortem report have been attributed to hard and blunt object and there is no Sword injury.

Learned counsel for the informant has opposed the prayer for bail of the appellant, as according to him there is a specific allegation of assault by this appellant on the head of the deceased.

Considering the facts and circumstances of the case and the materials discussed hereinabove, this Court sets aside the impugned order and directs release of the appellant above-named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 1st Additional District & Sessions Judge – cum – Special Judge, Siwan in connection with Nautan P.S. Case No. 99 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :



(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

