

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.2824 of 2021**

Arising Out of PS. Case No.-257 Year-2020 Thana- DIGHA District- Patna

- 
1. Ganesh @ Kala Son of Singhasan Rai Resident of Village - Mohalla - Makhdumpur, Gate no.89, P.O. - Digha Ghat, P.S.- Digha, Distt.- Patna, Pin-Code- 800011 (Bihar)
  2. Shashi Kumar Son of Late Suresh Rai Resident of Village - Mohalla - Makhdumpur, Gate no.89, P.O. - Digha Ghat, P.S.- Digha, Distt.- Patna, Pin-Code- 800011 (Bihar)

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

---

**Appearance :**

For the Appellant/s : Mr. Shree Prakash Srivastava, Advocate  
For the Respondent/s : Spl.P.P.

---

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

3      27-07-2021

**Re: I.A. No.1 of 2021**

The instant application has been filed for condonation of delay of about 51 days in filing of the instant appeal.

Having heard learned counsel for the appellants and on having gone through the contents of the petition, the Court is of the opinion that the appellants have made out a case for condonation of delay.

The delay is condoned.

I.A. No.1 of 2021 is allowed.

Heard learned counsel for the appellants and learned Special P.P. for the State through video conferencing.

The instant application has been preferred against the



order dated 3.2.2021 passed by the learned 3<sup>rd</sup> Additional District and Sessions Judge-cum-Special Judge, SC/ST Act, Patna whereby the prayer for bail of the appellants in connection with Digha P.S. Case No. 257 of 2020 registered under section 307 and other sections of the Indian Penal Code to which section 302 of I.P.C. was added subsequently and section 3 of the SC & ST (POA) Act ,was rejected.

As per allegation in the F.I.R., it is stated that the boys belonging to Gate no.88 beat up the brother of the informant as a result of which he started to bleed from his head. Subsequently, he died and section 302 of the Indian Penal Code was added.

It is submitted by learned counsel for the appellants that the appellants have been falsely implicated in the case. Referring to the order dated 25.3.2021 passed in Cr. Appeal (SJ) No. 1311 of 2021 whereby the co-accused Manthan Raj was enlarged on bail, it is submitted that the instant case is counter to Digha P.S. Case No. 256 of 2020. The case of the appellants herein are similar to that of co-accused Manthan Raj. The appellants are in custody since 17.8.2020 and have no criminal antecedent.

The appeal is opposed by learned Special P.P. for the



State.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the Court is inclined to allow the appeal. The appeal is allowed and the order dated 3.2.2021 passed by the learned 3<sup>rd</sup> Additional District and Sessions Judge-cum-Special Judge, SC/ST Act, Patna, is set aside.

The appellants are directed to be enlarged on bail in connection with Digha P.S. Case No. 257 of 2020 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 3<sup>rd</sup> Additional District and Sessions Judge-cum-Special Judge, SC/ST Act, Patna.

**(Partha Sarthy, J)**

Bibhash

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

