

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3241 of 2021

Arising Out of PS. Case No.-119 Year-2020 Thana- DANIYAWAN District- Patna

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AJAY PASAWAN @ SARANGI PASAWAN Son of Dukh Haran Pasawan
Resident of Village- Madawa, P.S.- Daniyawan, District- Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Giridhar Gopal Tiwary
For the Respondent/s : Mr.Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 17-08-2021 This matter is taken up for consideration through
Video Conferencing.

Heard learned counsel for the appellant and the State.

The present memo of appeal has been filed on behalf of the appellant for grant of bail against the order dated 01.06.2021 passed by learned Additional District & Sessions Judge III-cum-Special Judge (SC/ST Act), Patna in connection with Daniyanwa P.S. Case No. 119 of 2020 (Special Case No. 438 of 2020) under Sections 147, 148, 149, 302 and 120B of the Indian Penal Code and section 27 of the Arms Act and sections 3(1)(r)(s), 3(2)(Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for bail of the appellant was rejected.

Prosecution case in brief is that while informant along



with his brother Sunil Paswan and one Sudhir Choudhary were returning home by motorcycle, on the way as they reached near old petrol pump he saw Dayanand Sao, Naresh Paswan, Umesh Paswan and other persons named in the FIR along with 5-6 unknown persons were standing with arms, as the informant's brother Sunil Paswan reached before them, Dayanand Paswan and other stopped the motorcycle and took away him to the field where Dayanand Sao fired on his back and Ashok Paswan, Ajay Paswan (appellant) and Vikky Paswan threw him on the earth by holding hand and feet. Dayanand Paswan cut the throat of Sunil Paswan.

It is submitted on behalf of the appellant that appellant is not involved in the commission of murder of informant's brother rather he along with other co-accused are only alleged to have caught hold of the deceased and threw him on the ground. There is general and omnibus allegation. No specific overt act has been alleged against this appellant. No case under SC/ST Act is made out as the appellant belongs to the same community. Similarly situated co-accused persons have been granted bail by this court vide order dated 05.03.2021 passed in Cr. APP(SJ) No. 1408 of 2021 and order dated 17.04.2021 passed in Cr. APP (SJ) No. 1234 of 2021. Appellant



is in custody since 20.01.2021. Chargesheet has already been submitted.

Considering the aforesaid facts, this appeal is allowed. The impugned order dated 01.06.2021 passed by learned Additional District & Sessions Judge III-cum-Special Judge (SC/ST Act), Patna is set aside.

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 the learned Additional District & Sessions Judge III-cum-Special Judge (SC/ST Act), Patna in connection with Daniyanwa P.S. Case No. 119 of 2020 (Special Case No. 438 of 2020), subject to following conditions:-

(i) The appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(ii) If the appellant tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the appellant.

(Prabhat Kumar Singh, J)

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