

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3763 of 2021

Arising Out of PS. Case No.-16 Year-2021 Thana- SAHODARA District- West Champaran

NANHAK RAI, S/o Nishu Rai @ Kailash Rai, R/o village- Balua, P.S.-
Sahodara, District- West Champaran

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 07-10-2021 Heard learned counsel for the appellant and Mr. Binay
Krishna, learned Special P.P. for the State.

The appellant in the present case is seeking setting aside of the order dated 10.08.2021 passed in Sahodara P.S. Case No. 16 of 2021 registered for the offence punishable under Sections 147, 149, 302 of the Indian Penal Code and Sections 3(i)(r)(s), 3(ii)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Bettiah, West Champaran whereby and whereunder the prayer for regular bail of the appellant has been rejected. He is in custody since 27.07.2021, as per the impugned order the investigation is complete and a chargesheet has already been filed. The appellant has no criminal antecedent.



As per the prosecution story, the son of the informant had caused injury to a she-goat in village Balua while he was driving a tractor, he tried to flee away but some people chased him by motorcycle and started assaulting him. The informant alleged that he along with the other family members heard the hulla and ran to save his son but by that time his son had become unconscious, however, all the people were assaulting him.

Learned counsel for the appellant submits that from the F.I.R. itself it would appear that Balua village is situated at a distance of one kilometer from the village of the informant. He has named 11 persons in the F.I.R. saying that he had identified the 11 persons and all were assaulting his son, however, the claim of the informant that he came to the place of occurrence and identified the assailants seem to be highly improbable because he is a resident of another village situated at a distance of one kilometer.

It is his further submission that no specific allegation against the appellant and the learned Sessions Judge has noticed from the case diary that the post-mortem report is showing the cause of death due to throttling by some hard substance. It is submitted that the post-mortem report is not corroborating the



manner of occurrence as alleged in the F.I.R.

Mr. Binay Krishna, learned Special P.P. for the State has opposed the prayer for bail of the appellant.

Having regard to the facts and circumstances of the case, there is a general and omnibus kind of allegation against 11 named accused persons and the admitted statement of the informant is that his village is situated at a distance of one kilometer, further from the case diary the learned Sessions Judge has recorded that the cause of death as disclosed in the post-mortem report is said to be throttling of neck by some hard substance, this Court having noticed that the manner of occurrence as alleged in the F.I.R. is not getting corroborated from the post-mortem report, this Court sets-aside the impugned order and directs release of the appellant above named on bail on furnishing 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 Sessions Judge-cum-Special Judge (SC/ST), Bettiah, West Champaran in connection with Sahodara P.S. Case No. 16 of 2021 , subject to the condition as laid down under Section 437 (3) Cr.P.C.

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.

This appeal stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

