

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3960 of 2021**

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

Buchchi Giri @ Buchchi Bharti, aged about 26 years, Male, S/o Bunni Giri
R/o Village- Balua, P.S.- Sahodara, District- West Champaran.

... .. Appellant

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bimlesh Kumar Pandey, Adv.

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

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

2 29-10-2021 The matter has been listed today for consideration through Video Conferencing.

Heard learned counsel for the appellant and learned Spl PP for the State.

Learned counsel for the appellant is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

The appellant has preferred the present appeal under Section 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity, *SC/ ST Act*)



against the refusal of his prayer for regular bail vide order dated 10.08.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, Bettiah, West Champaran, in a case registered under Sections 147,149 and 302 of the Indian Penal Code and Sections 3(i)(r)(s), 3(ii)(v) of the SC/ST Act in connection with Sahodara P. S. Case No. 16 of 2021.

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, where, all the appellants were assaulting him.

Learned counsel for the appellant submits that from the First Information report 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 First Information report 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 is attributed against the appellant and the learned Sessions Judge has noticed from the case diary that the postmortem report is showing the cause of death due to throttling by some hard substance. It is submitted that the postmortem report is not corroborating the manner of occurrence as alleged in the First Information report. The appellant is in custody since 27.07.2021 though he has no criminal antecedents. As per the impugned order, the investigation is complete and charge sheet has already been filed. Similarly situated co-accused has been allowed bail in Cr. Appeal (SJ)No. 3763 of 2021.

The learned Spl. PP for the State has opposed the prayer for bail.

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 postmortem 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 postmortem report, is of the opinion that a case for grant of regular bail is made out. The impugned order dated 10.08.2021, passed in connection with Sahodara P. S. Case No. 16 of 2021, requires interference by this Court, which is, accordingly set aside.

Considering the rival submissions, this appeal is allowed. The impugned order dated 10.08.2021, passed by learned 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, Bettiah, West Champaran, in connection with Sahodara P. S. Case No. 16 of 2021, 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 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, Bettiah, West Champaran, in connection with Sahodara P. S. Case No. 16 of 2021 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.



(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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