

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 1116 of 2021

Arising Out of PS. Case No.-163 Year-2020 Thana- KALYANPUR District- East Champaran

Anup Das S/o Mr. Kalavir Das Resident of Village - Harpur Haridas, P.S -
Kalyanpur, District - East Champaran (Motihari).

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Adv. Mr. Udbhav, Adv.
For the Respondent/s	:	Mr. Anil Kumar, APP Mr. Surya Prakash Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2. 02-03-2021 Heard learned counsel for the parties.

The present appeal has been filed against order dated 05.11.2020 passed by learned A.D.J.-I cum Special Judge, SC/ST Act, East Champaran, Motihari in Kalyanpur P.S. Case No. 163 of 2020 registered for the offence punishable under Section 302 & other allied sections of the Indian Penal Code and Section 3(i)(r)(s) of SC/ST Act, whereby, the prayer for bail of appellant was rejected.

As per the prosecution case, this appellant and co-accused Manoj Kumar caught hold of Jitendra Chaudhary (informant's brother) and thereafter, co-accused Ramesh Prasad gave *gupti* blow on the back of informant's brother and fled away and during course of treatment, informant's brother died.



The reason for the occurrence is that co-accused Ramesh Prasad was Mukhiya since last 15 years, but this time, he lost the election due to informant's brother.

It is submitted on behalf of appellant that as perusal of FIR itself, it is apparent that the appellant is only alleged to have caught hold of deceased, whereas, specific allegation of giving *gupti* blow is against co-accused Ramesh Prasad. It is further submitted that inquest report goes to show that informant is not eye-witness to the occurrence and same has been prepared on 05.07.2020 at 4:50 AM and according to the inquest report, the deceased was badly assaulted by knife and rod. The appellant has got no criminal antecedent, as stated in paragraph – 3 of the memo of appeal, and he is in custody since 08.07.2020. Chargesheet has been submitted.

However, learned Special P.P. and counsel for the informant vehemently opposed the appeal. Counsel for the informant submits that appellant was one of the participant in the aforesaid occurrence, in which, one person died and other six persons received several injuries.

Considering the aforesaid facts & circumstances as well as nature of allegation and the fact that appellant has got clean antecedent and period of custody, the impugned order is



set aside and appeal is allowed.

Accordingly, let the appellant, above named, be released on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned A.D.J.-I cum Special Judge, SC/ST Act, East Champaran, Motihari, in connection with Kalyanpur P.S. Case No. 163 of 2020, on following conditions:

“(1) Appellant shall cooperate 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 on his absence on two consecutive dates without sufficient reason, his bail-bond shall be cancelled by the Court below.

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

(Prabhat Kumar Singh, J.)

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