

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.383 of 2022**

Arising Out of PS. Case No.-148 Year-2021 Thana- RANIYATALAB District- Patna

Prakash Kumar @ Larha, Son of Kallu Yadav @ Girja Yadav, Resident of
Village- Andharipur Mathiya, P.S.- Rani Talab, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sarsawati Devi, Wife of Late Sunil Manjhi, Resident of Village- Barda, P.S.-
Rani Talab, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ashok Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. PP
For the Respondent No.2:	:	Mrs. Shikha Roy, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-08-2022 Learned counsel for the appellant is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Ashok Kumar Sinha, learned counsel
appearing on behalf of the appellant, Mrs. Shikha Roy, learned
counsel for respondent no.2 and learned Spl. PP for the State.

The present appeal under Section 14(A) (2) of the
Scheduled Castes/Scheduled Tribes, Prevention of Atrocities
Act, (hereinafter referred to as 'SC/ST Act') has been preferred
against the order dated 09.12.2021 passed by the learned
Additional Sessions Judge-III-cum-Special Judge, SC/ST Act
(POA) Act, Patna in connection with Special Case No.220 of



2021, arising out of Ranitalab P.S. case no. 148 of 2021, registered for the offences punishable under Sections 341, 323, 324, 307, 302/34 of the Indian Penal Code and Sections 3(ii)(v) of the SC/ST Act whereby the prayer for grant of regular bail of the appellant has been rejected.

As per prosecution case, it is alleged that on 08.09.2021, in the evening at 7.30 P.M., while the father-in-law of the informant was standing on the side of road, in the meantime, all the F.I.R. named accused persons came to her house and started abusing and when the husband of the informant protested, thereupon it is alleged that co-accused Jaswant Kumar @ Bauna by means of iron rod and Vikash Kumar @ Benga by bamboo stick assaulted over the head of the husband of the informant, due to which he sustained fracture injury, resulting into his death, during the course of treatment.

Learned counsel appearing on behalf of the appellant submits that there is specific allegation against co-accused Jaswant Kumar @ Bauna and Vikash Kumar @ Benga and no allegation of any overt act has been levelled against the appellant. It is next submitted that from the F.I.R., at best the appellant can be said to be a member of the mob and there is no other allegation. It is next submitted that the post-mortem report



would suggest that only one injury has been found over the head of the deceased and as such it also falsifies the prosecution case to the extent that other persons have also assaulted the deceased. It is lastly submitted that the appellant is in custody since 10.08.2021, having fair antecedent and moreover after completion of the investigation of the crime, charge-sheet has been submitted much earlier.

On the other hand, learned counsel for the respondent no.2 opposes the bail application and submits that the appellant in furtherance of the common intention assaulted the husband of the informant resulting into his death and further the witnesses have also supported the prosecution case.

Learned Special Public Prosecutor appearing on behalf of the State also opposes the prayer for bail of the appellant.

Having regard to the submissions made on behalf of the learned counsel for the parties and taking note of the fact that the specific allegation has been levelled against two accused persons, namely, Jaswant Kumar @ Bauna and Vikash Kumar @ Benga, apart from the fact that the appellant is in custody since 10.08.2021, having fair antecedent, let the appellant, named above, be released on bail on furnishing bail bonds of



Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III-cum-Special Judge, SC/ST Act (POA) Act, Patna in connection with Special Case No.220 of 2021, arising out of Ranitalab P.S. case no. 148 of 2021, subject to the condition that one of the bailors will be the close relative of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain physically present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

In view of the aforesaid fact, the impugned order dated 09.12.2021 is hereby set aside and the present appeal stands allowed.

(Harish Kumar, J)

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