

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1613 of 2022

Arising Out of PS. Case No.-4 Year-2022 Thana- RAHUI District- Nalanda

SHIV PASWAN S/o Nandu Paswan R/o village- Dihra, P.S.- Rahui, District- Nalanda

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pramod Kumar Sinha, Advocate.
For the Respondent/s	:	Mr. Binay Krishna, Spl.P.P.
For the Respondent No.2:	:	Mr. Priyesh Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 29-09-2022 Learned counsel for the Appellant is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Pramod Kumar Sinha, learned counsel for the Appellant, Mr. Priyesh Kumar, learned counsel for the respondent no. 2 as well as learned Special Public Prosecutor for the State.

This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 06.04.2022 passed by the learned Additional District and Sessions Judge- III-cum-Special Judge SC/ST, Nalanda, Bihar



Sharif in connection with Rahui P. S. Case No. 04 of 2022 corresponding to SC/ST Case No. 36 of 2022 registered for the offences punishable under Sections 147, 148, 149, 379, 302 and 120 (B) read with 34 of the Indian Penal Code and Sections 3(2) (v) of the SC/ST (Prevention of Atrocities) Act.

As per the prosecution case, it is alleged that on 01.01.2022 at about 06:00 A.M., while the son of the respondent no. 2, Sikandar Paswan was going to attend nature call, in the meantime, all the accused persons including the appellant surrounded him and co-accused Nandu Paswan gave order to kill him and all the accused persons caught hold and started abusing and assaulting and the appellant assaulted him by means of an iron rod repeatedly with intention to kill him. It is further alleged that the co-accused persons also snatched his golden chain and fled away.

Learned counsel appearing on behalf of the Appellant submitted that general and omnibus nature of allegation has been levelled against all the F.I.R. named accused persons, however, only because of the previous animosity, the specific allegation has been attributed against the appellant that he assaulted him by means of iron rod. It is also submitted that during the course of investigation, the statement of the wife of



the deceased was recorded and she has categorically alleged that all the accused persons have assaulted the deceased and no specific allegation has been attributed against the appellant. It is further submitted that there is counter version of the present case being Rahui P. S. Case No. 10 of 2022 registered by the mother of the appellant. In fact, a free fight was taken place between both the sides due to which the members of both the sides have sustained injuries and the appellant has also received head injury. It is last submitted that the appellant is in custody since 02.01.2022 and he is ready to abide by all the terms and conditions.

On the other hand, learned counsel for the respondent no. 2 vehemently opposes the bail application and submits that specific allegation has been levelled against the appellant that he assaulted the deceased by means of iron rod and this allegation has also been corroborated by the post mortem report wherein, six injuries have been found and the cause of death is said to be head injury, which is attributed against the appellant.

Learned Special Public Prosecutor for the State also opposes the bail application.

Regard being had to the submissions made on



behalf of the parties and taking into account the specific nature of accusation against the appellant, which has also been corroborated by the post mortem report, this court is not persuaded to enlarge the appellant on bail for present, however, the appellant would be at liberty to renew his prayer for bail after framing of charge.

Accordingly, the present appeal stands rejected for present with the aforesaid liberty.

It is expected that the learned trial court will take all necessary measures to expedite and conclude the trial.

(Harish Kumar, J)

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