

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3706 of 2021**

Arising Out of PS. Case No.-174 Year-2021 Thana- SONEPUR District- Saran

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RAUSHAN KUMAR SON OF BRAHMANATH RAY @ BRAHAMDEV
RAY R/O VILLAGE- SABALPUR HASTI TOLA, NAURASIA PURVI,
P.S.- SONEPUR, DISTRICT- SARAN

... .. Appellant/s

Versus

1. The State of Bihar
2. Pankaj Kumar Son of Ramlagan Das Resident of village- Sabalpur Newal
Tola (Harijantoli) P.S.- Sonepur, Dist- Saran

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Himanshu Ranjan
For the Respondent/s	:	Mr.Special P.P. Mr.Vijay Kumar

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

- 3 09-11-2022 Heard learned counsel for the appellant, learned
Special P.P. for the State and learned counsel appearing on
behalf of respondent no. 2.

The present appeal has been filed against order dated
26.07.2021 passed by learned 1st Addl. Sessions Judge-cum-
Special Judge, SC/ST (POA) Act, Saran at Chapra in Sonepur
P.S. Case No. 174 of 2021 registered for the offence punishable
under Section 307 & other allied sections of the Indian Penal
Code and Section 3(1)(r)(s) of the Scheduled Castes and the
Scheduled Tribes (POA) Act (for short “SC/ST Act”), whereby
the prayer for anticipatory bail of appellant was rejected.

The prosecution case in short is that in the night of



28.03.2021, while the informant was returning his house from Hajipur, the F.I.R. named accused persons including this appellant and 2-3 unknown persons abusing one Lagandev Das and other people of SC/ST community and on protest, co-accused Suraj Kumar and Prahalad Rai gave repeated blow to the informant by butt of the country-made pistol. This appellant is alleged to have put *Gamachha* alongwith co-accused Golu Kumar in the neck of informant and thereafter, dragged him on the road and tried to throttle.

Learned counsel for the appellant submits that appellant has been falsely implicated in this case and he has got no concern with the alleged occurrence. He is driver and at the time of occurrence, he was in Delhi. As per F.I.R., the allegation of abuse and assault is vague and omnibus and as such, no case under the SC/ST Act is made out against this appellant. Specific accusation of overt act is against other co-accused persons. The appellant has got clean antecedent.

However, learned Special P.P. and learned counsel for the respondent no. 2 vehemently opposes the appeal and submits that there is specific allegation against this appellant and co-accused Golu Kumar that they tried to kill the informant by throttling.



Considering the nature of accusation coupled with the fact that appellant has got clean antecedent, the impugned order dated 26.07.2021 is, hereby, set aside and appeal is allowed.

Accordingly, in the event of arrest or surrender within a period of six weeks from today, let the above-named appellant be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Addl. Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in connection with Sonepur P.S. Case No. 174 of 2021.

(Prabhat Kumar Singh, J)

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