

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1079 of 2023

Arising Out of PS. Case No.-330 Year-2022 Thana- WARISNAGAR District- Samastipur

Ajay Paswan Son of Nathuni Paswan R/V- Satmalpur, PS- Warisnagar, Dist-
Samastipur Appellant/s

Versus

1. The State of Bihar
 2. Raj Kumari Devi Wife of Late Laxmi Paswan R/V- Satmalpur P.s- Warisnagar,
Dist- Samastipur
- ... Respondent/s

Appearance :

For the Appellant/s	:	Mr. Abhay Shankar Singh, Adv.
For the State	:	Ms. Usha Kumari 1, SPP.
For the Informant/s	:	Mr. Pramod Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 09-05-2023 1. Learned counsel appearing for the appellant, learned SPP appearing for the State and learned counsel appearing for the informant are present and they are heard in respect of the prayer for bail made by the appellant in the memo of appeal.

2. The instant appeal has been filed under Section 14(A)(2) of SC/ST (Prevention of Atrocities) Act, 1989 against the order dated 12.12.2022 passed by the Court of learned Special Judge SC/ST (POA) Act, Samastipur in connection with Warisnagar P.S. Case No. 330/2022 registered for the offences punishable under Sections 147, 149, 323, 302, 504 and 506 of the Indian Penal Code and Sections 3(1)(r),(s) and 3(2)(v) of SC/ST Act whereby and whereunder the appellant's prayer for bail was rejected.



3. The main submissions advanced by learned counsel for the appellant are that in the FIR, there is no specific allegation against the appellant regarding the alleged assault and abuse and as per the allegation levelled in the FIR, on 15.10.2022, the informant's husband was assaulted by the co-accused persons including the appellant but the informant's husband died on 28.10.2022 and as per medical expert's opinion given in deceased's post-mortem report, he died on account of chronic cardio respiratory disease and the medical expert's opinion is completely contradictory to the allegations levelled in the FIR and the offences under SC/ST Act, under which the FIR has been registered, are not made out as the appellant himself belongs to the SC/ST community and moreover, in the present matter four co-accused persons namely Raushan Paswan @ Raushan Kumar, Md. Aale, Md. Ansabul and Md. Tinku @ Md. Elahi, who are carrying similar nature of allegation, have been granted anticipatory bail by a co-ordinate Bench of this Court vide order passed in Cr. APP(SJ) 563/2023 and the appellant has fair and clean antecedent and has been languishing in jail since 31.10.2022.

4. Learned counsel for the informant vehemently opposes the bail prayer of the appellant and submits that the appellant and the co-accused persons are named in the



FIR and against them, there is serious allegation.

5. Learned SPP appearing for the State has also opposed the bail prayer and submitted that the order impugned has been rightly passed and the appellant does not deserve to the privilege of bail.

6. Considering the above submissions and mainly the facts that in the FIR, there is no specific allegation against the appellant and the deceased died several days after the alleged occurrence of assault and as per the medical expert's opinion, his cause of death was chronic cardio respiratory disease and the specific allegation of assault was made against co-accused Md. Aale and Md. Ansabul, who are on bail, in my opinion the appellant deserves to the privilege of bail. Accordingly, the order impugned is hereby set aside and the appeal stands allowed and the appellant is directed to 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 Special Judge SC/ST (POA) Act, Samastipur in connection with Warisnagar P.S. Case No. 330/2022.

(Shailendra Singh, J)

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