

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2756 of 2023**

Arising Out of PS. Case No.-500 Year-2022 Thana- RAHUI District- Nalanda

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VIJAY YADAV S/O LATE PAHADI YADAV R/O Village- Mahmmadpur,
P.S- Rahui, Distt.- Nalanda, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mithilesh Paswan S/O Shambhu Paswan R/O Village- Mahmmadpur, P.S-
Rahui, Distt.- Nalanda, Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Rajiv Nayan,Advocate
For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 18-08-2023 Heard learned counsel for the appellant, learned

counsel for respondent No.2 and learned Special Public

Prosecutor for the State.

2. This is an appeal under Sections 14(A)(2) of the

Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, against refusal of the prayer for regular bail by

order dated 17.05.2023 passed by the learned Additional

Sessions Judge-III-cum-Special Judge, SC/ST Act, Nalanda, in

connection with SC/ST P.S.Case No.220 of 2022 arising out of

Rahui P.S.Case No.500 of 2022 registered under Sections

341,323,302,504,506,34 of the Indian Penal Code and Sections

3(i)(r) (s), 3(2)(V) of SC/ST (POA)Act.



3. Allegation against the appellant is that he alongwith co-accused co-accused Dhananajay Yadav inflicted the iron blow on the head of the father of the informant as a result of which he fell down. Father of the informant was brought to P.H.C. , Rahui where he was declared as dead.

4. Learned counsel for the appellant submits that the appellant has clean antecedent and he has falsely been implicated in the present case. Further submits that from bare perusal of the FIR it appears that due to admitted land dispute the present occurrence had taken place and there is case and counter case and from bare perusal of the FIR it is alleged that co-accused Dhananajay Yadav and Vijay Yadav gave iron rod blow on the head of the father of the informant but the postmortem report of the father of the informant suggests that only one injury was found over the left parietal region of the father of the informant and no other external injury has been found on the person of the deceased and it is not clear that who have inflicted the iron blow over the head of the father of the informant, as per allegation, two persons have assaulted the father of the informant but there is only one injury was found on the person of the deceased and the police, after investigation, submitted the charge sheet against the appellant and the



appellant is in custody since 19.09.2022.

5. The learned counsel for the respondent No.2 and learned Special Public Prosecutor for the State, on the other hand, have vehemently opposed the prayer for bail of the appellant and submits that there is direct and specific allegation against the appellant that he alongwith other co-accused person have inflicted the iron blow on the head of the father of the informant.

6. Considering the aforesaid facts and circumstances, let the appellant, above named, 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 Additional Sessions Judge-III-cum-Special Judge, SC/ST Act, Nalanda, in connection with SC/ST P.S.Case No.220 of 2022 arising out of Rahui P.S.Case No.500 of 2022, subject to the following conditions:-

I. Appellant shall co-operate 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.



II. 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.

III. And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

7. Accordingly, the impugned order dated 17.05.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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