

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3094 of 2022**

Arising Out of PS. Case No.-122 Year-2022 Thana- DARAUNDA District- Siwan

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MD ASLAM @ MD ASLAM HUSSAIN S/o Late Saheb Hussain Resident of
Village- K.T. Bharauli Darji Tola, P.S.- Daraunda, District- Siwan.
... .. Appellant/s

Versus

1. The State of Bihar
2. Sudhan Chaudhary S/o Late Khokhar Chaudhary Resident of Village-
Dayalpur, P.S.- Janta Bazar, District- Siwan.
... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Tiwary, Advocate
For the Respondent/s : Mr.A.G

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

- 4 26-07-2023 1. Despite valid service of notice issued, nobody appeared on behalf of respondent No 2.
2. Heard learned counsel for the appellant, the State and respondent no.2.
3. The present appeal is directed against the order dated 30.06.2022, passed in a case registered for the offence punishable under Sections 302/34 of the Indian Penal Code read with Sections 3 (i) (r) 3 (1) (s) 3 (2)(va) of the SC/ST Act, whereby anticipatory bail of the appellant has been rejected.
4. As per the prosecution case, all the accused persons abused the respondent no.2 by caste name because they did not stop playing orchestra. It is further alleged that in course of maarpit son of respondent No. 2 was assaulted



on his back side of head due to which he fell down, thereafter he was brought at Sadar Hospital, Siwan, where the doctor declared him dead.

5. It is submitted that appellant is not named in the F.I.R. His name transpired during course of investigation. Allegation of assault is general and omnibus. No specific overt act is alleged against this appellant. On perusal of the fardbeyan of the informant it is apparent that there is no whisper against this appellant. There is no allegation of abuse against this appellant and hence no case under sc/st Act is made out against this appellant. Doctor has found one injury on the body of the deceased. Appellant claims clean antecedent.

6. Learned counsel for the state and respondent no.2 opposed the prayer for bail.

7. Having regard to the submissions made by the parties and taking into consideration the materials available on record, this appeal is allowed and the impugned order dated 30.06.2022 is set aside.

8. Accordingly, in the event of arrest or surrender the appellant, above named, before the court below within eight weeks from today, they shall be released on anticipatory 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 1 st Additional Sessions Judge-cum-Special Judge, Siwan in connection with Daraunda Police Station Case No. 122 of 2022, subject to the condition as laid down under Section 438 (2) of the Code Of Criminal Procedure.

(Prabhat Kumar Singh, J)

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