

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3334 of 2022

Arising Out of PS. Case No.-616 Year-2018 Thana- BARACHATTI District- Gaya

Praveen Kumar Son of Jagdish Singh @ Jagdish Mahto R/O Village-
Gangaur, P.S.- Barachatti, Distt.- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Meena Devi wife of Kailash Paswn resident of village- Gangaur, P.S.-
Barachatti, District- Gaya

... .. Respondent/s

Appearance:

For the Appellant/s	:	Mr. Siddartha Prasad, Advocate Mr. Abhay Shankar, Advocate
For O.P. No. 2	:	Mr. Kumar Kaushlendu, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 16-03-2023 Learned counsel Mr. Siddartha Prasad appearing for the appellant, learned counsel Mr. Kumar Kaushlendu, appearing for opposite party no. 2 and learned Spl. PP Mr. Sadanand Paswan appearing for the State are present and they are heard.

The instant appeal has been preferred under Section 14 (A) of the SC/ST (POA) Act, 1989 against the order dated 01.09.2022 passed in Trial No. 232 of 2021 arising out of Barachatti P.S. Case No. 616 of 2018 registered under Sections 147, 148, 149, 341, 323, 325, 308 and 304 of the Indian Penal Code and under Sections 3(1) (r), (s) of the SC/ST Act, by the Court of learned Exclusive Special Judge whereby the appellant's prayer for bail was rejected.

The main submissions advanced by learned counsel for the

appellant are that the appellant has fair and clean antecedent and has been languishing in jail since 23.08.2022 and he, himself, surrendered before the Court below and admittedly enmity was running in between both the parties when the alleged occurrence took place, pre-arrest bail has been granted to co-accused persons by a co-ordinate bench of this Court vide order passed in Cr. App. (SJ) No. 2405 of 2019, and appellant is the owner of the land on which the alleged occurrence took place, the title of said land has been declared by a Court of competent jurisdiction in favour of the family members of the appellant and the possession of land had also been shown by the Circle Officer in favour of the appellant's family in a complaint made by informant's side, and the informant and their associates had connection with MCC and CPI (ML). Further submission is that as per the allegation the appellant was alleged to have inflicted *iron rod* blow at the head of the deceased namely, Jagrup Manjhi but there is no allegation that the appellant assaulted the deceased repeatedly by the said weapon and at the initial stage the victim Jagrup Manjhi's injury report was issued in which five injuries were shown on his body and the same were opined as simple in nature and the injury at the head of the deceased was found to be in the size of 1/2"x1/4"x1/4" which cannot be deemed to be sufficient to cause death of a person and thereafter the *post-mortem* examination was done on the body of the deceased in which the exact cause of death of the deceased could not be ascertained and thereafter viscera of the deceased was

sent to the FSL and in view of the opinion given by the expert in the FSL report as well as in *post-mortem* report the alleged act of the appellant cannot be deemed to be the direct reason of the death of the deceased.

Learned counsel appearing for respondent no. 2 has submitted that in the present time a good relation has restored in between both the parties and they have filed compromise petition in the Court below.

Considering the above submissions as well as having regard to the facts and circumstances of this case and taking into account the injury report of the deceased issued at the initial stage and his *post-mortem* report and the genesis of the occurrence, 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 named above is directed to 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 the learned Exclusive Special Judge, SC/ST, Gaya in Connection with Barachatti P.S. Case No. 616 of 2018.

(Shailendra Singh, J)

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