

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4233 of 2022

Arising Out of PS. Case No.-290 Year-2022 Thana- MASHRAK District- Saran

NIJAMUDDIN MIYAN @ NIZAMUDDIN @ NIJAMULLAH MIYAN Son
of Late Issue Miyan R/V- Karan Kudaria, P.S- Mashrakh Dist- Saran

... .. Appellant/s

Versus

1. The State of Bihar
2. Hiralal Nut Son of Kapil Nut R/V- Karan Kudaria, P.S- Mashrakh, Dist- Saran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar Singh, Advocate
For the Respondent/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 19-04-2023 Heard learned counsel for the appellant and
learned APP for the State.

2. No one appears on behalf of Respondent
No.2 despite notice having been validly served upon him, as per
office report.

3. The instant criminal appeal has been filed
under Section 14(A)(2) of the Scheduled Castes and the
Scheduled Tribes (Prevention of Atrocities) Act, against the
order dated 11.11.2022 passed by learned 3rd Additional
Sessions Judge-cum-SC/ST Special Court, Saran in connection
with Masrak P.S. Case No.290 of 2022 registered for the
offences punishable under Sections 341, 323, 324, 504 and



506/34 of the Indian Penal Code and Sections 3(i)(r), 3(2)(va) of SC/ST Act by which the the appellant's prayer for bail has been rejected.

4. The main submissions advanced by learned counsel for the appellant are that as per the allegations levelled in the FIR this appellant assaulted at the head of the informant by means of *chhapar* and co-accused Israfil Mian assaulted at the head of the informant by means of *dab* and two injuries have been found on the body of the informant and in view of the nature of allegation levelled in the FIR, the petitioner's case is completely identical to co-accused Israfil Mian who has been granted Anticipatory Bail by a co-ordinate Bench of this Court vide order passed in Cr. Appeal (SJ) No.48 of 2023 and the major offence of IPC under which the FIR has been registered is 324 and the offences of SC/ST Act are not made out against the appellant and one co-accused namely Akbar Ali @ Akbar Mian has also been granted Anticipatory Bail by a co-ordinate Bench of this Court vide order passed in Cr. Appeal (SJ) No.4182 of 2022 and the present appellant has been languishing in jail since 09.09.2022. Further submission is that against the appellant there is criminal antecedent of one case in which he is on bail.

5. Learned APP appearing for the State has opposed the bail prayer of the appellant.



6. Considering the above submissions and mainly the appellant's custody period and also the fact that there is no allegation of repeated assault by the appellant on the person of the informant by means of *chhapar* and he was alleged to have inflicted only one blow by the said means and similarly situated two co-accused persons mentioned-above have been granted anticipatory bail by a co-ordinate Bench of this Court, in the opinion of this Court it will be proper to enlarge the appellant on bail. Accordingly, the order impugned is hereby set aside and the appellant above-named 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 Court concerned in connection with Masrak P.S. Case No.290 of 2022.

7. In the result, the instant appeal stands allowed.

(Shailendra Singh, J)

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