

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.246 of 2024**

Arising Out of PS. Case No.-301 Year-2023 Thana- NOORSARAI District- Nalanda

Suresh Mahto @ Suresh Prasad S/O Late Narayan Mahto R/O Village- Kundi,
P.S- Noorsarai, Distt.- Nalanda.

... .. Appellant/s

Versus

1. The State of Bihar
2. Rohit Kumar Kishori Choudhary Resident of Village- Prahlad Nagar, P.S.-
Noorsarai, District- Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ritesh Kumar, Advocate
For the Informant	:	Mr.Pankaj Kumar, Advocate
	:	Mr.Ram Murti, Advocate
	:	Mr.Niranjana Kumar, Advocate
For the State	:	Ms.Usha Kumari 1, SPP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 04-04-2024 Heard learned counsel for the appellant, learned Special Public Prosecutor for the State, learned counsel for the informant and perused the case diary.

2. The instant appeal has been filed by the appellant against the order dated 12.12.2023 passed by Additional District and Sessions Judge-VI cum Special Judge SC/ST Act, Nalanda at Bihar Sharif whereby the prayer for bail of the appellant in connection with Noorsarai P.S. Case No. 301 of 2023 under Sections 341, 323, 307, 504, 506,302/34 of the Indian Penal



Code and Sections 3(i)(r)(s), 3(2)(v)(a) of SC/ST Act was rejected.

3. The prosecution case, in short, is that all the accused persons including this appellant assaulted the father of the informant by means of *khanti* and *lathi*. It is specifically alleged that co-accused Daroga Mahto gave *khanti* blow on the head of the informant due to which he sustained head injuries and later on, he succumbed to injuries.

4. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. Learned counsel further submitted that there is no specific overt act levelled against this appellant rather general and omnibus allegation is made against him. The specific accusation of assaulting the deceased is attributed against co-accused Daroga Mahto. Learned counsel further submitted that there is a delay of four days in lodging the FIR without plausible explanation, which in itself, raises doubt over the prosecution story. Informant is not the eye-witness to the alleged occurrence. Learned counsel for the appellant further submits that the appellant has not taken the caste name of the informant in public view, hence, no offence under the provisions of SC/ST Act is made out against him. The appellant is in custody since



07.10.2023 and has no criminal antecedent.

5. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the appellant, stating that the post-mortem report of the deceased corroborates the allegation levelled against the accused persons including this appellant.

6. Considering the aforesaid facts and circumstances of the case, no direct allegation, clean antecedent as well as the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 12.12.2023 passed by Additional District and Sessions Judge-VI cum Special Judge SC/ST Act, Nalanda at Bihar Sharif is hereby set aside.

7. Let the appellant, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Noorsarai P.S. Case No. 301 of 2023, subject to following conditions:

(I) One of the bailors shall be own/close member of the family of the appellant.

(II) The appellant shall appear on each and every date fixed at the trial. In case of default in such appearance on two



consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the appellant.

8. The appeal stands allowed.

(Rudra Prakash Mishra, J)

Alok Verma/-

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