

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.330 of 2024

Arising Out of PS. Case No.-530 Year-2023 Thana- KUCHAIKOTE District- Gopalganj

Badshah Yadav Son Of Hardev Yadav R/O-Narayanpur, P.S.-Kuchaikote,
Distt.-Gopalganj, Bihar

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sumit Shekhar Pandey, Adv.
For the Respondent/s	:	Ms. Usha Kumari 1, SPP
For the Informant	:	Mr. Dhananjay Kr. Upadhyay, Adv.

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

ORAL ORDER

4 16-05-2024 Heard learned counsel for the appellant, learned Special Public Prosecutor for the State and learned counsel for the informant. Perused the case diary.

2. The instant appeal has been filed by the appellant against the order dated 14.12.2023, passed by learned Additional Sessions Judge-XI cum Exclusive Special Judge, SC/ST Act, Gopalganj whereby the prayer for bail of the appellant in connection with Kuchaikote P.S. Case No. 530 of 2023 under Sections 302/34 of the Indian Penal Code and Section 3(2)(v) of the SC/ST Act, was rejected.

3. As per prosecution case, the accusation against the accused persons including the appellant is of assaulting the Informant and her husband indiscriminately due to which they



sustained grievous injuries on their bodies. Thereafter, the police came and brought the Informant and her husband to P.H.C., Kuchaikote from where they were referred to Sadar Hospital, Gopalganj and again from there, they were referred to Gorakhpur but, on the way, the husband of the Informant died. It is alleged that the appellant has assaulted the Informant's husband with the butt of the gun on his back and leg.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case due to ulterior motive. There is an admitted land dispute between the parties. The allegation made against the appellant is general and omnibus. Section 302 I.P.C. is not made out against the appellant as there is an allegation that he has assaulted the deceased with butt of a gun over his back and leg. 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 has no intention to disgrace the image of the informant in public view. The appellant is in custody since 28.10.2023. The appellant has five criminal antecedents but, in all, he is on bail. Charge-sheet has been submitted in this case.



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 Informant in her restatement and the witnesses in para- 6, 7 & 8 of the case diary have supported the allegation made in the F.I.R. The inquest report supports the prosecution case. The postmortem report also mention that death is due to hemorrhage and shock due to above mentioned injury caused by impact of hard and blunt substance. Charge-sheet has been submitted against the appellant under Sections 302/34 of the I.P.C. and Section 3(2)(v) of the SC/ST POA Act. The petitioner has five criminal antecedents and, thus, he does not deserve bail.

6. Considering the aforesaid facts and circumstances of the case, nature and gravity of the offence and the appellant having five criminal antecedents, this Court is not inclined to grant bail to the appellant at this stage.

7. Accordingly, the prayer for bail of the appellant, above named, is rejected with a direction to the court below to expedite the trial and conclude the same expeditiously preferably within a period of nine months from the date of receipt/production of a copy of this order.

8. If the trial is not concluded within the aforesaid



period of nine months, the appellant will be at liberty to renew his prayer for bail before the court below which will be disposed of on merit without being prejudiced by this order.

(Rudra Prakash Mishra, J)

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