

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.375 of 2024

Arising Out of PS. Case No.-140 Year-2021 Thana- SIKANDRA District- Jamui

1. Sunil Yadav @ Sunil Kumar Yadav Son of Late Chando Yadav Resident of Village-Itasagar, P.s.-Sikandara, Distt.-jamui
2. Pradeep Yadav @ Pradeep Kumar Son of Anil Yadav Resident of Village-Itasagar, P.S.-Sikandara, Distt.-Jamui

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vipin Kumar, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 10-04-2024 Heard Mr. Vipin Kumar, learned advocate appearing on behalf of the appellants and the learned Additional Public Prosecutor for the State as well as Mr. Anupanand Jha, learned advocate for the respondent/informant.

2. An appeal u/s 14(A)2 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the SC/ST Act) is preferred against the refusal of prayer for bail vide order dated 02.01.2024 passed by the learned Additional District Judge-cum-Special Judge, POCSO and SC/ST (POA) Act, Jamui in connection with SC/ST case no. 126 of 2021 registered for offences under Section 147, 149, 341, 323, 307, 302, 504, 506 of Indian Penal code and 3(i)



(r)(s), 3(2)(v) of SC/ST (POA) Act.

3. As per the prosecution case, it is alleged that on 29.05.2021, when the family members of Chano Yadav were going to cremate the dead body and when they reached near the temple of the Lord Hanuman the villagers told him to keep the dead body away from the said temple, upon which all the family members of Chano Yadav started misbehaving with the family members and thereupon, all the accused persons brutally assaulted and abuse the informant. It is subsequently alleged that the appellant no. 1 and co-accused Anil Yadav assaulted the informant on his head and neck by means of wooden blocks.

4. Learned counsel appearing on behalf of the appellants submitted that there is general and omnibus nature of allegation against all the accused persons including the appellants, however, from the tenor of the F.I.R., it appears that the informant is not an eye-witness to the alleged occurrence. It is further submitted that the prosecution's case of assault made by the wooden block does not corroborate by the post mortem report as the post mortem report of the deceased, clearly shows that no injury has been found on the external surface and internal organ of the body and as such, cause of death could not be ascertained and the viscera has been sent for chemical



analyses to Forensic Science Laboratory. The F.S.L. report has also been received by this Court , however, no case of poisoning has been found. The aforesaid facts laid to the filing of final report showing no complicity of the appellants, the copy of which is produced as Annexure-2 to the petition.

5. It is further submitted that considering the aforesaid facts co-acused Anil Yadav having identical allegation has been allowed bail in Criminal Appeal(SJ) No. 4516 of 2021 vide order dated 01.07.2022.

6. On the other hand, learned counsel for the respondent no. 2 vehemently opposes the bail application and submits that there is specific allegation against this appellant that he assaulted the deceased by means of wooden block over his head and neck and this fact has been corroborated by the inquest report, which clearly shows that injury has been found over the head and neck of the deceased.

7. Having considered the submissions made on behalf of the parties and taking on account the fact that the co-accused, Anil Yadav having identical allegation has been allowed bail coupled with the fact that the appellant is in custody since 13.12.2023 with a fair antecedent, the impugned order dated 02.01.2024 is hereby set aside. The appeal stands allowed. Let



the appellant above named be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned -cum-Special Judge, POCSO and SC/ST (POA) Act, Jamui in connection with SC/ST case no. 126 of 2021 arising out of Sikandara P.S. Case No. 140 of 2021, subject to the condition that one of the bailors will be the close relatives of the appellants with further conditions which are as follows:-

(i) The appellants will cooperate in conclusion of the trial.

(ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the appellants and in case, at any stage, it is found that the appellants have concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the appellants. However, the acceptance of bail bonds,



in terms of the above-mentioned order, shall not be delayed for
this purpose or in the name of verification.

(Harish Kumar, J)

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