

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.759 of 2024

Arising Out of PS. Case No.-206 Year-2023 Thana- FESHAR District- Aurangabad

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Dhananjay Kumar @ Baiju Sao @ Dhananjay Prasad Gupta @ Dhananjay
Sao S/O Chandradip Saw R/O Village- Panday Khap, P.S- Fesar, Distt.-
Aurangabad, Bihar.

... .. Appellant

Versus

1. The State of Bihar
2. Niranjana Kumar S/O Late Jagdeo Paswan R/O Village- Pandey Khap, P.S-
Fesar, Distt.- Aurangabad.

... .. Respondents

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Appearance :

For the Appellant	:	Mr.Rupa Kumari
For the Respondent	:	Mr.Usha Kumari 1

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

5 23-08-2024 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act against the refusal of prayer for anticipatory bail
vide order dated 16.12.2023 passed by the learned Special
Judge, SC/ST cum 1st Additional District & Sessions Judge,
Aurangabad, Bihar in connection with Fesar P.S. Case No. 206
of 2023 dated 14.11.2023 registered for the offence/s punishable
under Sections 147, 148, 149, 341, 323, 325, 307, 302, 504 of
the I.P.C. and Sections 3(1)(r)(s), 3(2)(v) of the SC/ST (POA)
Act.



3. As per the prosecution case, in brief, on 14.11.2023 at 4.00 P.M., while the cousin brother of the informant, Sujeet Kumar was returning to his home after grinding flour, the co-accused Ramakant Kumar and Govind Sao stopped and assaulted him causing hand injury. When the informant's family went to the door of the co-accused Sanjay Sao for query about it, the appellant and several co-accused persons having lathi-danda in their hands came and assaulted the informant's family members due to that they sustained injuries. When the informant's grand mother, Munari Devi came to pacify the quarrel, the petitioner assaulted with rod due to that she died. When fight was going, the appellant alongwith several co-accused were pelting bricks and stones from their roofs on the informant's family members by calling his caste name.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no particular caste name has been called by the appellant hence no case is made out under section SC/ST



Act. The co-accused has been granted bail by this Court vide order dated 02.05.2024 passed in Cr. Appeal (SJ) No. 751 of 2024. As per the Post Mortem Report, the deceased sustained one injury i.e., abrasion on left elbow 2" x 2" in size whereas the opinion is kept reserved till the report of histopathological examination and chemical analysis comes. The appellant has no criminal antecedent as stated at para 3 of the bail petition.

5. Learned Spl. P.P. for the State has vehemently opposed the anticipatory bail petition of the appellant who assaulted the deceased with rod.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 16.12.2023 passed by the learned Special Judge, SC/ST cum 1st Additional District & Sessions Judge, Aurangabad, Bihar in connection with Fesar P.S. Case No. 206 of 2023, is set aside against the appellant. The criminal appeal is allowed.

6. Accordingly, the above named appellant, in the event of his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST cum



1st Additional District & Sessions Judge, Aurangabad, Bihar in connection with Fesar P.S. Case No. 206 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition:-

(i) The appellant is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellant are liable to be cancelled.

(Chandra Prakash Singh, J)

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