

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.819 of 2024

Arising Out of PS. Case No.-560 Year-2023 Thana- GAURICHAK District- Patna

Sablu Kumar @ Chhagalwa Son of Late Karu Mahto Resident of Village-
Sohni Kushapar, P.S.- Gaurichak, Patna, Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Poonam Devi Wife of Guddu Paswan Resident of Village- Jalalpur, P.S.-
Dhanarua, District- Patna, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Santosh Bharti, Adv. Mr. Apurva Kumar, Adv.
For the State	:	Ms.Usha Kumari 1, SPP
For the O.P. No.2	:	None

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. Perused the case diary.

2. The instant appeal has been filed by the appellant against the order dated 16.01.2024 passed by learned Exclusive Special Court (SC/ST Act), Patna in Special Case No. 419 of 2023 and Serial Case No. 373 of 2023 whereby the prayer for bail of the appellant in connection with Gaurichak P.S. Case No. 560 of 2023 under Sections 147, 148, 149, 341, 323, 307, 302, 337, 338/34 of the Indian Penal Code and Section 3(i)(r) (w)/3(2)(v)(a) of the SC/ST (PoA) Act, was rejected.

3. As per prosecution case, the accusation against the appellant is of being involved in committing murder of the deceased/Informant's husband by assaulting with *lathi-danda*,



iron rod and bricks.

4. Learned counsel for the appellant submits that the appellant is innocent and has committed no offence as alleged in the F.I.R. and has falsely been implicated in the present case on account of merely family/village feud. The petitioner is not named in the F.I.R. but, his name has surfaced in this case on the basis of the CCTV footage. There is no specific or direct allegation of any overt act against the appellant rather the same is general and omnibus in nature. The appellant has no concern with the alleged occurrence. Charge-sheet has been submitted in this case. The appellant is in custody since 02.11.2023 and has no criminal antecedent.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant, stating that the name of the appellant has sprung in this case on the basis of the CCTV footage. The inquest report and the postmortem report support the prosecution case.

6. Considering the aforesaid facts and circumstances of the case, the appellant being not named in the F.I.R., the period of custody undergone by the appellant as also the appellant having no criminal antecedent, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order



16.01.2024 passed by learned Exclusive Special Court (SC/ST Act), Patna in Special Case No. 419 of 2023 and Serial Case No. 373 of 2023 is hereby set aside.

7. Let the appellant, abovenamed, be released on bail *after framing of charge, if not already framed*, 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 Gaurichak P.S. Case No. 560 of 2023, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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