

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1740 of 2024**

Arising Out of PS. Case No.-619 Year-2023 Thana- FATEHPUR District- Gaya

Santosh Rajbanshi SON OF Lakhan Rajbanshi Resident Of Village-Mahugain
Rasalpur, P.O-Tarwan,P.S-Fatehpur, District-Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Lalan Chaudhary S/o Shri Arjun Chaudhary R/o vill - Meharpur, P.S. - Fatehpur, Distt. - Gaya (Bihar)

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ramakant Singh, Adv.
For the Respondent/s : Mr.Binay Krishna, SPP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 27-06-2024 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 28.02.2024 passed by learned Exclusive Special Judge SC/ST, Gaya whereby the prayer for bail of the appellant in connection with Fatehpur P.S. Case No. 619 of 2023 under Sections 147, 341, 323, 324, 307, 379, 504 of the Indian Penal Code and Sections 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Protection of Atrocities) Act, 1989, Act was rejected.

3. As per prosecution case, the accusation has been



made against the accused persons including the appellant of assaulting and abusing the victim by caste name as also threatening of dire consequences.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case due to dirty village politics. He submits that there is a case and counter case between the parties as the co-accused Chandan Rajbanshi had filed a case being Fatehpur P.S. Case No. 618 of 2023 and, thereafter, the Informant filed the instant F.I.R. The allegation made against the appellant is general and omnibus and there is no injury to anyone in this case. The appellant and the Informant both belong to SC category and, hence, Section under the SC/ST Act is not attracted against the appellant. The appellant has no concern with the alleged occurrence. Charge-sheet has been submitted in this case. The appellant is in custody since 09.02.2024 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 there is a direct allegation against the appellant of assaulting by sword and rod as also abusing to the victim against her caste name. The appellant is the named accused in the F.I.R. The



nature of injuries has been opined as grievous.

6. Considering the aforesaid facts and circumstances of the case and there being a case and counter case between the parties as also taking into account the period of custody undergone by the appellant coupled with the fact that the appellant bears no criminal antecedent, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 28.02.2024 passed by learned Exclusive Special Judge SC/ST, Gaya 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 Fatehpur P.S. Case No. 619 of 2023, subject to following conditions;

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

(ii) The appellant 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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