

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1497 of 2024

Arising Out of PS. Case No.-391 Year-2023 Thana- KASBA District- Purnia

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Dharm Nath Sah S/O Sri Mukundeo Sah R/O Village- Betauna Santhal Tola,
P.S- Kasba, Distt.- Purnea.

... .. Appellant/s

Versus

1. The State of Bihar
2. Runiya Devi W/O Late Sanjay Urawn R/O Village- Betauna Santhal Tola
P.S- Kasba, Distt.- Purnea.

... .. Respondent/s

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Appearance :

For the Appellant/s :	Mr. Ram Prawesh Kumar, Advocate
For the Respondent/s :	Mrs. Usha Kumari 1, SPP
For Opposite Party No.2 :	Mr. Kundan Kumar Singh, Advocate
	Mr. Jamaluddin Ahmad Khan, Advocate

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

ORAL ORDER

4 25-06-2024 Heard learned counsel for the appellant, learned

Special Public Prosecutor for the State and learned counsel for

the informant/Respondent No. 2.

2. The instant appeal has been filed by the appellant
against the order dated 09.02.2024, passed by learned Special
Judge SC/ST Act, Purnea, whereby the prayer for bail of the
appellant in connection with Kasba P.S. Case No. 391 of 2023,
under Section 302/34 of the Indian Penal Code and Section 3(1)
(r)(s), 3(2)(v) of SC/ST (Prevention of Atrocities Act) was
rejected.



3. Prosecution case, in short, is that, the accused persons arranged a shed of tin near the land of the informant. On protest, the accused persons abused the husband of the informant by taking their caste name and the appellant assaulted him with *khanti* and bamboo on his chest due to which husband of the informant died at night.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. The appellant and informant are door-to-door neighbours. There is allegation of assault to the husband of the informant against the appellant. It is submitted that after assault the husband of the appellant was not taken anywhere for treatment. The deceased was suffering from ailments and due to which he fell down on earth and breath his last. 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 14.11.2023 and has one criminal antecedent in which the appellant is on bail.

5. Learned Special P.P. for the State and learned



counsel for the informant have vehemently opposed the prayer for grant of bail to the appellant. Learned counsel for the informant further submitted that there is specific allegation against the appellant of assaulting the husband of the informant by means of *khanti* and bamboo on his chest due to which he breath his last at night.

6. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 09.02.2024, passed by learned Special Judge SC/ST Act, Purnea, is hereby set aside.

7. Let the appellant 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 Kasba P.S. Case No. 391 of 2023, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the appellant.

(II) The appellant shall appear on each and every date fixed at the trial. In case of default in such appearance on two



consecutive dates, the Trial Court will have liberty to cancel the
bail bonds of the appellant.

(Rudra Prakash Mishra, J)

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