

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1556 of 2024

Arising Out of PS. Case No.-379 Year-2023 Thana- SARAIYA District- Muzaffarpur

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Rajmangal Rai Son of Late Sukan Rai Resident of Village- Gijas, P.S.- Saraiya (Jaitpur O.P.), Dist.- Muzaffarpur Appellant/s
Versus

1. The State of Bihar
2. shambhu Das Son of Late Dasai Das Resident of village- Gijas, P.S.- Saraiya (Jaitpur O.P.), Dist.- Muzaffarpur Respondent/s

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Appearance :

For the Appellant/s : Mr.Sunil Kumar Pandey,Adv.
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 05-12-2024 Heard learned counsel for the appellant.

2. The present appeal is directed against the order dated 12.09.2023 passed by learned Special Judge SC/ST (POA) Act, Muzaffarpur whereby and where under learned court has been pleased to reject the bail application filed by the appellant in Saraiya (Jaitpur OP) P.S. Case No. 379/2023 lodged on 16.06.2023 for the offence u/s. 147, 148, 149, 323, 427, 307, 302, 504, 506 of the IPC and sections 3(i)(r) 3(1)(s), 3(2) (v) (a) of SC/ST (POA) Act, pending before the court of learned Special Judge SC/ST (POA) Act, Muzaffarpur.

3. As per the prosecution story, the informant alleged that due to land dispute, the accused persons came, abused by caste name and subsequently, started assaulting the informant's side. Dikesh Kumar gave *lathi* blow to his brother, Kamlesh Das which was followed by the other accused persons. Kamlesh Das was rushed to Primary Health Centre and then to SKMCH, Muzaffarpur. Finally, while taking him to Patna, he died. This



led to the FIR.

4. Learned counsel for the appellant submits that a perusal of the FIR would show that there was a land dispute in which scuffle took place, specific allegation is against Dikesh Kumar that he gave *Lathi* blow causing injury which proved fatal. So far as this petitioner is concerned, omnibus allegation has been made against him, has already suffered by being in custody since 27.06.2023 (paragraph-10 of the petition), charge-sheet submitted and if granted relief, he shall be diligently appearing in trial.

5. There is no representation of the State.

6. Having gone through the facts of the case and the submissions of the appellant, specific allegation is against Dikesh Kumar of giving fatal blow to the brother of the informant. There is omnibus allegation against this appellant, has got no criminal antecedent and has already remained in custody for one and a half year and further an undertaking has been given that he shall be diligently appearing in trial, in the aforesaid background, this Court is inclined to extend relief.

7. The order dated 12.09.2023 passed by learned Special Judge SC/ST (POA) Act, Muzaffarpur in Saraiya (Jaitpur OP) P.S. Case No. 379/2023 stands set aside and the



appeal stands allowed.

8. Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten thousand) with two sureties of like amount each to the satisfaction of learned Special Judge SC/ST (POA) Act, Muzaffarpur, in connection with aforesaid PS Case subject to the following conditions:

- (i) one of the bailors should be the family member/relative of the appellant who shall provide official document to show his bona fide;
- (ii) the appellant shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;
- (iii) the appellant shall appear before the concerned police station every month for next six months to mark his attendance;
- (iv) the appellant shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;
- (v) the appellant shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

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