

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3095 of 2024

Arising Out of PS. Case No.-301 Year-2023 Thana- NOORSARAI District- Nalanda

Daroga Mahto @ Manoj Kumar Son of Suresh Mahto Village- Kundi, Ps-
Noorsarai, Dist- Nalanda

... .. Appellant/s

Versus

1. The State of Bihar
2. Rohit Kumar Son of Kishore Choudhary Village- Prahlad Nagar, Ps-
Noorsarai, Dist- Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Bijay Kumar, Adv.
For the State	:	Ms. Usha Kumari 1, SPP
For the Informant	:	Mr. Ashutosh Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

3 20-09-2024 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and learned counsel for
the informant. Perused the case diary.

2. The instant appeal has been filed by the appellant
against the order dated 21.05.2024 passed by learned Additional
Sessions Judge- 6th cum Special Judge SC/ST Act, Nalanda,
Biharsharif whereby the prayer for anticipatory bail of the
appellant in connection with Noorsarai P.S. Case No. 301 of
2023 under Sections 341, 323, 307, 504, 506, 302/34 of the
I.P.C. and Section 3(i)(r)(s), 3(2)(v)(a) of the SC/ST Act Act was
rejected.

3. As per prosecution case, the accusation against the



appellant is that he along with other accused persons assaulted the father of the Informant with a *lathi* due to which he died.

4. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the present case due to previous enmity. There is no direct or specific allegation of any overt act against the appellant rather the same is general and omnibus in nature. There is no independent witness who have supported the prosecution case. The postmortem report also does not support the prosecution case. Charge-sheet has been submitted against the accused Suresh Mahto in this case. There is delay of four days in instituting the F.I.R. which also raises doubts in the prosecution case. There is no eye-witness to the alleged occurrence. 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 has no criminal antecedent. Similar co-accused has been granted bail by a Coordinate Bench of this Court vide order dated 04.04.2024 passed in Cr. Appeal (S.J.) No. 246 of 2024.

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



have vehemently opposed the prayer for grant of bail to the appellant, stating that the witnesses at Para 6, 7, 8 & 9 have supported the prosecution case. The postmortem report also supports the prosecution case. The offence alleged is serious in nature and, thus, the appellant does not deserve anticipatory bail.

6. Considering the aforesaid facts and circumstances of the case and there being specific and direct allegation of assault against the appellant, this Court is not inclined to grant anticipatory bail to the appellant. Accordingly, the appeal is dismissed.

7. If the appellant surrenders before the court below within a period of four weeks from today and prays for regular bail, the same would be considered by the court below in accordance with law without being prejudiced by the order of this Court.

(Rudra Prakash Mishra, J)

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