

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3886 of 2023**

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

Madan Rai Son Of Late Brahmdeo Rai R/O Village- Gijas, Ps- Saraiya
(Jaitpur Op), Dist- Muzaffarpur

... .. Appellant/s

Versus

1. The State Of Bihar
2. Shambhu Das, S/o Late Dasai Das, R/o Village-Gijas, P.S. Saraiya (Jaitpur O.P.), District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sunil Kumar Pandey
For the Respondent/s : Mr.Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER**

4 11-01-2024 Heard learned counsel for the appellant, learned counsel for the informant and learned Special Public Prosecutor for the State.

2. The instant appeal has been filed by the appellant against the order dated 27.07.2023 passed by learned Special Judge, SC/ST (POA) Act, Muzaffarpur whereby the prayer for bail of the appellant in connection with Saraiya (Jaitpur O.P.) P.S. Case no. 379 of 2023 under Sections 147, 148, 149, 323, 427, 307, 302, 504 and 506 of the Indian Penal Code and sections 3(1)(r), 3(1)(s), 3(2)(v)(a) of SC/ST (POA) Act was rejected.

3. Allegation against the accused persons including



the appellant is of abusing and assaulting the informant by means of lathi due to which he received injury. It is further alleged that co-accused Dillesh Kumar assaulted with lathi on the head of informant's brother Kamlesh Kumar as a result of which he sustained injury and during course of treatment he died.

4. It is submitted by learned counsel for the appellant that appellant is innocent and has been falsely implicated in this case due to land dispute. General and omnibus allegation has been levelled against the appellant. There is no specific overt act against this appellant rather the specific allegation is against co-accuse Dillesh Kumar who assaulted the informant's brother due to which he succumbed to injury and he died. He has not taken the caste name of the informant in public view. No offence is made out under the provisions of the SC/ST Act against him. The appellant has got criminal antecedent and languishing in judicial custody since 18.06.2023.

5. The appeal for bail is opposed by learned Spl. P.P. for the State and learned counsel for the informant.

6. Having heard learned counsel for the parties and taking into consideration that there is general and omnibus



allegation against the appellant, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 27.07.2023 is hereby set aside.

7.The appellant is directed to be enlarged on bail in connection with Saraiya (Jaitpur O.P.) P.S. Case No. 379 of 2023 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST (POA) Act, Muzaffapur.

(Sunil Kumar Panwar, J)

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