

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.127 of 2023**

Arising Out of PS. Case No.-162 Year-2022 Thana- MUFFASIL District- Aurangabad

Amrendra Kumar, Son of Dudheshwar Yadav, Residents of Village- Ora, P.S.-
Aurangabad Mufassil, District- Aurangabad (Bihar)

... .. Appellant/s

Versus

1. The State of Bihar
2. Jitendra Rajak, Son of Bhagwan Rajak, R/v- Ora, P.S.- Aurangabad
Mufassil, District- Aurangabad (Bihar)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mrs.Leelawati Kumari, Advocate
For the State	:	Mr.Sadanand Paswan, Spl.P.P.
For the O.P.No.2	:	Ms. Sakshi Deep, Advocate

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 25-10-2024

Heard learned counsel for the appellant, learned
Spl.PP for the State and learned counsel for the opposite party
no.2.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail vide
order dated 08.12.2022 passed by the learned Additional
Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act,
Aurangabad in connection with Aurangabad Muffasil P.S. Case
No.162 of 2022, registered for the alleged offences under
Sections 341, 323, 325, 307, 302, 504, 506/34 of the Indian
Penal Code and Section 3(1) (r), 3 (1) (s), 3 (2) (v) of the



Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the appellant and co-accused person Dudheshwar Yadav abused and assaulted the informant causing fracture of his right hand. When the mother of the informant came for his rescue, this appellant struck on her head with iron rod causing its fracture. The mother of the informant was taken to the hospital where she was declared brought dead.

4. The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. The post mortem report of deceased Tuleshwari Devi shows the opinion regarding cause of death has been reserved till the examination of viscera and other body parts. So the cause of death is not the alleged assault by the appellant. The viscera and histopathological examination did not throw any light on the cause of death. Perhaps, the deceased lady died due to natural causes. Though, there is allegation of appellant using iron rod for striking the mother of the informant, no such article has been recovered by the police during investigation. The learned counsel further submits that in fact the present case is counterblast of Aurangabad P.S. Case No. 163 of 2022 lodged



by this appellant against the informant and his family members. The appellant and the informant are neighbours and some altercation and scuffle took place between the families and specially between co-accused Dudheshwar Yadav and the informant and when the mother of the informant intervened, she was pushed aside and fell down and died. So no offence under any of the provisions of the Indian Penal Code or SC/ST (POA) Act is made out against the appellant. The appellant is in custody since 24.05.2022 and is having clean antecedent.

5. The learned Spl.P.P. as well as learned counsel appearing on behalf of the opposite party no.2/informant vehemently oppose the submission made on behalf of the appellant. The learned counsel for the informant submits that there is specific allegation against the appellant that he hit on the head of the mother of the informant, who died. There is also allegation against the appellant that he used to misbehave with the ladies of the house of the informant.

6. Having regard to the facts and circumstances and the submission made on behalf of the parties and considering the doubt over cause of death and further considering the period of custody of the appellant along with his clean antecedent, the appellant above named is directed to be released on bail on



furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Aurangabad, in connection with Aurangabad Muffasil P.S. Case No. 162 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

7. Accordingly, the impugned order is set aside and the appeal stands allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.10.2024
Transmission Date	26.10.2024

