

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5387 of 2023

Arising Out of PS. Case No.-27 Year-2019 Thana- SONNAGAR RAIL P.S. District- Gaya

Rohit Sao @ Rohit Kumar, aged about 23 years, Male Son of Birendra Sao,
Resident of Village- Ankorha, P.S. Khaira, District Aurangabad (Bihar).

... .. Appellant/s

Versus

1. The State of Bihar
2. Suneshwar Paswan, aged about unknown Male, Son of Shri Satyanaryan Paswan, Resident of Village- Vairav, P.S. Simra, District Aurangabad (Bihar).

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Leelawati Kumari, Advocate Mr. Aman Vishal, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. PP
For the Informant/s	:	Mr. Amit Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

3 22-02-2024 Heard learned counsel for the appellant, learned
Special PP for the state and learned counsel for the informant.

2.The appellant has preferred the present appeal filed under Section 14 (A) (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 16.10.2023 passed by the learned Exclusive Special Judge, S.C./S.T., Gaya in B.P. No. 551 of 2023 arising out of Son Nagar Rail P.S. Case No. 27 of 2019 instituted for an alleged offences punishable under Sections 302, 120(B), 201/34 of the Indian Penal Code and Sections 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act by



which the appellant's prayer for bail was rejected.

3. The prosecution story in brief is that on 04.06.2019, the informant submitted written report stating therein that his son, namely, Suryakant Kumar living in Gaya and Rohit Sao was friend of his son. Rohit took mobile number of his son and gave this mobile number to Shali of his brother namely Soni Kumari, thereafter, on 18-05-2019, Suryakant Kumar went to attend marriage, Accused persons came and tied hands and legs of Suryakant Kumar and assaulted him and later on murdered him.

4. Learned counsel for the appellant has submitted that the appellant is quite innocent has committed no offence and has been falsely implicated in this case. The informant is not an eye-witness to the alleged occurrence rather the suspicion is based on hearsay statements. It is further submitted that in the FIR, general and omnibus allegations has been alleged against the appellant and no specific overt act has been alleged against him. During course of investigation, several witnesses have been examined by the investigation officer and none of the said witnesses have supported the allegations as alleged by the informant. It is also submitted that appellant has no criminal antecedent as stated in para-3 of the petition.



5. However, learned Special PP. for the State and learned counsel for the informant have opposes the prayer for bail and submitted that there is allegation against the appellant for assaulting and committing the murder of the son of the informant.

6. On perusal of the FIR, Post Mortem report, Case diary and the impugned order of the learned Exclusive Special Judge, SC/ST Act, Gaya dated 16.10.2023, it appears that the case was registered against the five accused including the appellant and 4-5 unknown for assaulting, committing, abusing and murdered the victim. The occurrence took place on 18.05.2019 and the FIR was lodged on 04.06.2019 and there was no explanation of delay for lodging of the FIR. Learned counsel for the appellant submits that similarly situated Co-accused person namely Mukesh Chaudhary @ Mukesh Kumar in Cr. Misc. No. 67707 of 2019 dated 04.03.2020, Manish Kumar in Cr. Misc. No. 23486 of 2020 vide Order dated 24.11.2020, Raushan Kumar in Cr. Misc. No. 25606/2020 vide Order dated 10.11.2020, Birendra Sao and Ravindra Sao in Cr. Misc. No. 7819/2022 vide Order dated 06.07.2022 and Shrawan Sao in Cr. App. (SJ) No. 3545/2022 vide Order dated 14.03.2022 have already been granted bail by different co-



ordinate Benches of this Court.

7. Considering the above submissions and period of the custody of the appellant and also the fact that similarly situated co-accused persons have already been granted bail by different co-ordinate Benches of this Court and the appellant is in judicial custody since 06.10.2023, in my opinion, it is a fit case for grant of bail to the appellant.

8. Accordingly, the impugned order dated 16.10.2023 is set aside and the prayer for bail of the appellant stands allowed and the appellant is directed to be released on bail on furnishing of bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge SC/ST, Gaya in connection with Son Nagar Rail P.S. Case No. 27 of 2019.

9. Accordingly, the appeal stands allowed.

(Ramesh Chand Malviya, J)

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