

Arising Out of PS. Case No.-82 Year-2020 Thana- SALAKHUA District- Saharsa

... .. Appellant/s

Versus

- Respondent/s

For the Appellant/s : Mr. Shekhar Kumar Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

7 16-01-2025 Heard learned counsel for the parties. Despite
valid service of notice nobody appears on behalf of respondent
No. 2.

2. This appeal has been filed for setting aside order dated 05.03.2021 passed in a case registered for the offence punishable under sections 341, 324, 307, 379, 427 147, 323 , 379, 354, 504 and 34 and other allied sections of the Indian Penal Code and sections 3(i)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (POA) Act, whereby the prayer for anticipatory bail of the appellant has been rejected.

3 . The prosecution case, in brief, is that on the alleged date and time of occurrence , all the F.I.R., named



accused persons including this appellant armed with deadly weapons entered into the house of informant and abused him and looted away the articles from the shop of the informant and when the informant protested then all the accused persons brutally assaulted the informant, son of the informant namely Binod Sharma and one Birbal Sharma and during course of treatment Birbal Sharma died.

4. Learned counsel for the appellant submits that this appellant is not named in the F.I.R., and his name has transpired during course of investigation on statement of Rakesh Sharma according to whom petitioner was not the assailant of the deceased. It was co-accused Pankaj Yadav , Pravesh Yadav and Robin Yadav who assaulted Birbal Sharma (deceased). Petitioner is not the assailant of the deceased. F.I.R., does not disclose that any member of public was present at the time of incident, as such, no case under SC/ST Act is made out. Appellant claims clean antecedent.

5 . The learned Special public prosecutor for the State vehemently opposed the prayer for bail of this petitioner.

6. Considering the fact that petitioner is not the assailant of the deceased, clean antecedent of the appellant, this appeal is allowed and the impugned order is set aside. Let the



appellant, named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge – IIIrd cum Special Judge SC/ST Act, Saharsa in connection with Salkhua Police Station Case No. 82 of 2020.

(Prabhat Kumar Singh, J)

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