

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5160 of 2024

Arising Out of PS. Case No.-441 Year-2024 Thana- AHİYAPUR District- Muzaffarpur

Himanshu Kumar @ Gopi Son of Rajendra Rai Village - Bhikhanpur, P.S.-
Ahiyapur, District- Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Rahul Kumar Son of Mohan Ram R/O Vil.- Saraiya Sadullahpur, P.S.-
Ahiyapur, District- Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Hemant Kumar, Adv.
For the Respondent/s	:	Mr. Binay Krishna, APP
For the Informant	:	Mr. Devendra Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

3 18-01-2025 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 08.10.2024 passed by learned

Special Judge SC/ST (POA) Act, Muzaffarpur whereby the

prayer for bail of the appellant in connection with Ahiyapur

P.S. Case No. 441 of 2024 under Sections 341, 323, 324,

307/34 of the I.P.C. and Sections 3(1)(r), 3(1)(s), 3(2)(v) of

the SC/ST Act, was rejected.

3. The prosecution case, in short, is that on

23.03.2024, when the Informant's brother Bobby Kumar had



gone to a government school to study, all the miscreants including the appellant made him sit on their bike, brought him to the Fatehpur school field and assaulted him with fists, injuring him and also made a video on their mobile and made the same viral. It is also alleged that later on, on 26.03.2024, all the miscreants, using caste abusive language, dragged out and co-accused Chhotu Kumar inflicted knife blow upon him due to which he sustained grievous injury. Thereafter, all the accused persons fled away from there and the Informant was taken to Hospital for his treatment.

4. Learned counsel for the appellant submits that the appellant is innocent and has committed no offence as alleged in the F.I.R. and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. There is no specific or direct allegation of any overt act against the appellant rather the same is general and omnibus in nature. The specific allegation of inflicting knife blow is upon the co-accused Chhotu Kumar. Learned counsel for the appellant further submits that there is delay of five days in lodging the F.I.R. that too without explanation any plausible explanation



for the same which creates doubt in the prosecution case. The appellant has no concern with the Informant. The appellant has also not abused the Informant in the name of his caste. 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 is in custody since 25.09.2024 and has no criminal antecedent.

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 offence alleged against the appellant is serious in nature and, hence, he does not deserve bail.

6. Having heard learned counsel for the parties and considering the aforesaid facts and circumstances of the case, the period of custody undergone by the appellant, the appellant having no criminal antecedent as also there being no specific allegation of assault against the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the order dated 08.10.2024 passed by learned Special Judge SC/ST (POA) Act, Muzaffarpur is hereby set



aside.

7. Let the appellant, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Ahiyapur P.S. Case No. 441 of 2024, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the appellant.

(ii) The appellant shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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