

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5180 of 2024

Arising Out of PS. Case No.-216 Year-2024 Thana- RAGHUNATHPUR District- Siwan

Abhishek Dubey @ Abhishek Kumar Dubey Son of Asheshwar Dubey
Resident of Village - Kausar, P.S. - Raghunathpur, District- Siwan,

... .. Appellant/s

Versus

1. The State of Bihar
2. Prince Kumar Son of Late Ramdeni Ram Resident of Village - Kausar, P.S. - Raghunathpur, District- Siwan,

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bhavesh Kumar, Adv.

For the Respondent/s : Mr.Sadanand Paswan, SPP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 18-01-2025 Heard learned counsel for the appellant and learned Special Public Prosecutor for the State. Though, the notice upon the respondent no.2 stands validly served but, no one appears on his behalf. Perused the case diary.

2. The instant appeal has been filed by the appellant against the order dated 23.10.2024 passed by learned 1st Additional Sessions Judge cum Special Judge, Siwan whereby the prayer for bail of the appellant in connection with Raghunathpur P.S. Case No. 216 of 2024 under Sections 103(1), 3(5) of the B.N.S., 2023 and Sections 3(i)(r)(s)/3(2)(v) of the SC/ST (PoA) Act, was rejected.

3. As per prosecution case, the appellant is an accused



of conspiring with the other co-accused persons to injure the Informant and his father, a member of the Scheduled Caste, by hitting them with sticks and rod for not going to work. It is also alleged that the father of the injured Informant died in course of 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 due to previous dispute. Charge-sheet has been submitted in this case due to old enmity. He further submits that there is no direct or specific allegation of any overt act against the appellant rather the same is general and omnibus in nature. The direct allegation of assault is against the co-accused Mahesh Bhagat, Ankesh Bhagat and Ankit Bhagat. He further submits that on the date of alleged occurrence, the appellant was not present at the place of occurrence. Learned counsel for the appellant further submits that the appellant has not taken the caste name of the informant in public view. 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 29.07.2024 and has no criminal antecedent.



5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant, stating that the offence alleged against the appellant is serious in nature. The postmortem report corroborates the prosecution case. There is specific allegation of assault against the appellant along with the other accused persons due to which the Informant's father sustained grievous injury over his body and he died in course of treatment and, hence, the appellant 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 petitioner having no criminal antecedent as also there being no specific and direct allegation of assault against the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the order dated 23.10.2024 passed by learned 1st Additional Sessions Judge cum Special Judge, Siwan 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 Raghunathpur P.S. Case No. 216 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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