

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.50 of 2025**

Arising Out of PS. Case No.-173 Year-2024 Thana- KATRA District- Muzaffarpur

Nitesh Kumar, aged about 21 years, Male, Son of Jitendra Das, R/O Vill.-
Devgan, P.S- Katra, District- Muzaffarpur

... .. Appellant

Versus

1. The State of Bihar
2. Gauri Paswan, aged about 47 years, Male, S/o Late Surukh Paswan, R/O Vill.- Devgan, Ward No-4, P.S- Katra, District- Muzaffarpur

... .. Respondents

Appearance :

For the Appellant	:	Mr. Nachiketa Jha, Advocate
For the O.P. No. 2	:	Prem Kumar Paswan, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 03-04-2025 Heard learned counsel for the appellant, learned
counsel for the respondent no. 2 and learned Spl. P.P. for the
State.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
‘SC/ST Act’) against the refusal for prayer of bail of the
appellant vide order dated 23.10.2024, passed by the learned
Special Judge, SC/ST (POA) Act, Muzaffarpur in connection
with Case No. Katra 173 of 2024, arising out of Katra P.S. Case



No. 173 of 2024, registered for the offences punishable under Sections 191, 190, 126, 115(2), 118, 109, 103 of B.N.S. and Sections 3(2)(v) of the SC/ST Act.

3. The prosecution case, in brief, is that on 08.10.2024, the informant's son Nitish Kumar alongwith his co-villagers, namely, Dihraj Kumar and Pragyan Kumar went to see the fare in the campus of Bakhari High School. When they were returning, on the way which was going towards Sakari, in the meantime, Ganesh Das, Nitesh Kumar (petitioner) and 5-6 unknown persons started abusing them by calling their caste's name. When the informant's son protested, then Nitesh Kumar (petitioner) assaulted with Iron Fighter and the co-accused Ganesh Das assaulted with knife on the chest of the informant's son Nitish, due to which, he died on the spot. Thereafter, his villagers, Dhiraj Kumar and Pragyan Kumar came to rescue him, the co-accused Ganesh Das assaulted with knife on the hand of Dhiraj Kumar and the co-accused Ganesh Das also assaulted by the side of chest of Pragyan Kumar, due to which, they became unconscious. The people came and brought them to the hospital for their treatment.

4. It is submitted by learned counsel for the appellant that the appellant is quite innocent and has falsely been



implicated in the present case due to ulterior motive. It is submitted that there is general and omnibus allegation of assault to the deceased with the Iron Fighter. It is further submitted that the specific allegation of assault with knife on the chest of the deceased (Nitish Kumar) as well as Diraj Kumar and Pragayan Kumar is against the co-accused Ganesh Das. The only allegation against the petitioner is that he assaulted with Iron Fighter to the deceased. The informant is not the eye witness to the alleged occurrence. Charge sheet has been submitted in the present case. It is further submitted that the victims are the co-villagers of the petitioner and other co-accused person but they did not disclose their names whereas they identified the petitioner and the other co-accused person through photographs. The appellant has clean antecedent as stated in paragraph no. 3 of the memo of appeal. No member of public was present at the relevant point of time of the alleged incident. Hence, no offence under the SC/ST Act is made out against the appellant. The appellant is in custody since 23.10.2024.

5. Learned Spl. P.P. for the State and learned counsel for the respondent no. 2 have vehemently opposed the prayer for bail of the appellant. Learned counsel for the respondent no. 2 refers paragraph no. 4 of the case diary in which the witness



Sunil Paswan has stated that when Nitish Kumar @ Nitesh Paswan (deceased), Dhiraj Kumar and Pragyan Kumar were returning after seeing fare, the co-accused Ganesh Das and Nitesh Kumar (petitioner) and 5-6 unknown persons abused them by calling their caste's name and on protest, the petitioner assaulted with Iron Fighter here and there on the body of the deceased and the co-accused Ganesh Das assaulted with knife on the chest of the deceased, due to which, he died. The witness further states that Dhiraj Kumar received knife injury on his hand and Pragyan Kumar received knife injury on his chest, due to which, they became unconscious and thereafter the accused persons fled away.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 23.10.2024, passed by learned Special Judge, SC/ST (POA) Act, Muzaffarpur in Case No. Katra 173 of 2024, arising out of Katra P.S. Case No. 173 of 2024, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST



(POA) Act, Muzaffarpur in connection with Case No. Katra 173
of 2024, arising out of Katra P.S. Case No. 173 of 2024.

(Chandra Prakash Singh, J)

U.K./-

U		T	
---	--	---	--

