

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.915 of 2016

Arising Out of PS.Case No. -301 Year- 2015 Thana -SAUR BAZAR District- SAHARSA

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1. Babloo Yadav Son of Late Bindeshwari Yadav resident of Village+P.O.-
Patarghat, P.S.- Sour Bazar, District- Saharsa.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pramod Mishra

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 10-11-2016

Heard the parties.

2. The appellant, in this Appeal under Section 14A(2) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 is aggrieved by an order, dated 19.07.2016 passed in B.A. No. 476 of 2016, by learned 1st Additional Sessions Judge, Saharsa, whereby and whereunder, the appellant's application for grant of regular bail has been rejected. The appellant is in judicial custody since 10.06.2016, in connection with Saur Bazar P.S. Case No. 301 of 2015, for the alleged offences under Sections 304B, 328, 323, 314, 120B read with Section 34 of the Indian Penal Code and Section 3(2)(V) of Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act.

3. It is evident from the First Information Report that the deceased is the wife of the appellant. The deceased belonged to

Scheduled Caste. It is alleged in the First Information Report, registered on the basis of a written report of the uncle of the deceased that the deceased was administered poison by the accused persons.

4. Learned counsel, appearing on behalf of the appellant has submitted that even if the allegation made in the First Information Report is treated to be correct, no offence under Section 304B of the Indian Penal Code, is made out inasmuch as, there is no demand of dowry alleged. He has also submitted that the postmortem report does not corroborate the allegation made in the First Information Report that the deceased was administered poison. He has thirdly submitted that the implication of the appellant is merely on the basis of suspicion. It has lastly been submitted that the petitioner has already spent five months in judicial custody and nearly two months from the date of submission of charge-sheet. According to him, the trial has yet not commenced and since the charge-sheet has already been submitted, no tangible purpose will be served, if the petitioner is allowed to remain in judicial custody further, there being no likelihood that he will be fleeing away from the course of justice or influencing the witnesses.

5. Learned counsel, appearing on behalf of the appellant appears to be correct in his submissions that these aspects are germane which ought to have been taken into account by the

learned Court below while considering the appellant's application for regular bail.

6. Considering the nature of accusation, made in the First Information Report, materials collected in course of investigation as available in the case diary and the fact that the appellant has remained in judicial custody for nearly five months, this appeals is allowed. The order, dated 19.07.2016 is set aside. The appellant above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000 (Rs. Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum- Special Judge S.C. & S.T. (Prevention of Atrocities) Act, Saharsa in connection with Saur Bazar P.S. Case No. 301 of 2015.

7. This is subject to the condition that the appellant shall present himself before the police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bond shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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