

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.548 of 2017

Arising Out of PS.Case No. -100 Year- 2016 Thana -PAKARIBARAW District- NAWADA

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Kanhaiya Singh, Son of Late Awadh Singh, Resident of Village + P.S.-
Pipariya, District-Lakhisarai.

.... Appellant

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellant/s : Mr. Rama Kant Sharma
: Mr. Lakshmi Kant Sharma
For the Respondent/s : Mr. Smt Usha Kumari No-1

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI
ORAL ORDER

3 26-04-2017 Heard learned counsel for the appellant as well as

learned Spl.P.P.

Tractor-trailor loaded with bricks along with
driver, a scheduled caste disappeared in the evening of
21.05.2016. On the following day, dead body of driver was
recovered whereupon, the informant Fulwa Devi; wife of the
driver instituted this case.

It has been contended on behalf of appellant that
none of the Sections, where case has been registered including that
of Scheduled Castes & Scheduled Tribes (Prevention of
Atrocities) Act, is applicable against the appellant in the facts and
circumstances of the case as there happens to be complete absence



of eye-witnesses implicating the appellant to be the assailant of deceased and further, knowing since before that deceased was a member of scheduled caste. It has also been submitted that one Golden Kumar @ Pursottam Kumar was apprehended on suspicion whose inculpatory extra-judicial confessional statement is recorded under para 7, wherein he had shown his complicity along with others and during course thereof, he had stated that the aforesaid tractor and trailer had been sold to the appellant who runs a brick-kiln and on account thereof, there happens to be seizure. It has also been submitted that virtually, the aforesaid tractor was not at all purchased by the appellant rather it was under hire given by Tripurari @ Gulshan, a co-accused and Annexure-2 of the instant appeal disclose the mode of payment to the Tripurari and therefore, neither it would be said that appellant happens to be in possession of the tractor as an owner nor there happens to be conscious possession of the appellant and that being so, it is a fit case, whereunder, appellant should be released on anticipatory bail.

On the other hand, the learned Spl.P.P. opposed the prayer and submitted that after inculpatory extra-judicial confessional statement of Golden Kumar @ Purushottam@Chhote (para 70) as well as Pawan Kumar @ Kaila @ Prince Raj (para



76), the vehicle in question was seized and for that, seizure list has been prepared (para 83) and column 2 specifically suggests that seizure happens to be from the brick-kiln of the appellant. The aforesaid recovery when is taken into consideration with the inculpatory extra-judicial confessional statement of aforesaid two accused then, in that event, conscious knowledge of the occurrence as well as on account of recovery of looted article is found duly exposed from the place of appellant. Conduct of appellant is further found suspicious as appellant had negotiated and succeeded in getting the tractor on much less price and that too, on an initial payment of Rs. 10,000/-.

Considering the aforesaid status, I do not see it a fit case for grant of anticipatory bail and consequent thereupon, the same is rejected.

(Aditya Kumar Trivedi, J.)

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