

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1318 of 2019

In
CRIMINAL MISCELLANEOUS No.10590 of 2019

Arising Out of PS. Case No.-117 Year-2018 Thana- HALSI District- Lakhisarai

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Mithlesh Bind @ Mithlesh Kumar Son of Late Ganga Bind Resident of
Village- Bakiya, P.S.- Halsi, District- Lakhisarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Jainendra Kumar

For the Respondent/s : Mr. Binay Krishna

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

ORAL ORDER

5 31-07-2019 Heard learned counsel for the appellant and learned
Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act against the refusal of prayer of anticipatory bail
vide order dated 09.01.2019 passed by learned 1st Addl. District
& Sessions Judge, Lakhisarai in Halsi P.S. Case No. 117 of 2018
initially registered under Sections 363, 365 of the Indian Penal
Code and later on added with Sections 302, 201/34 of I.P.C. and
Section 3(x)(2)(va) of the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act.

Son of the informant is said to have been



kidnapped by some unknown miscreants while he had gone to Lakhisharai. During the course of investigation, it was found that Jeera Devi was having illicit affair with the deceased, and her husband, brother and other persons calling him at their house committed his murder.

It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He is not named in the FIR. There is nothing cogent on record to indicate the complicity of the appellant in the occurrence barring the confessional statement of co-accused Jeera Devi. The aforesaid confessional statement is not admissible in the evidence against the appellant. Moreover, as per the aforesaid confessional statement, over illicit relation between Jeera Devi and the deceased, the appellant had dropped Jeera Devi at her maternal house and informed the matter to her parents. Due to aforesaid reason and out of grudge, Jeera Devi has named the appellant in the occurrence in her confessional statement. There is no eyewitness of the occurrence. None has seen the appellant visiting the house of Jeera Devi at the time of occurrence. It is a case of circumstantial evidence, and no cogent and clinching circumstance has been brought in the case diary during the course of investigation indicating complicity of the appellant in



the occurrence. Allegation levelled against the appellant is not specific rather general and omnibus in nature. Appellant has no criminal antecedent. Similarly situated co-accused, namely, Rajendra Bind has been enlarged on anticipatory bail by this Court vide order dated 10.07.2019 passed in Cr. Appeal (SJ) No. 1972 of 2019.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, let the above named appellant be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Addl. Sessions Judge cum Special Judge, SC/ST Act, Lakhisarai in connection with Halsi P.S. Case No. 117 of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and appeal is allowed.

(Prakash Chandra Jaiswal, J)

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