

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.4766 of 2018

Arising Out of PS. Case No.-42 Year-2018 Thana- PATLIPUTRA District- Patna

=====

Vishal Kumar son of Birju Mahto @ Braju Mahto @ Bijul Mahto, resident of
Gosai Tola near Nilima Tent House, Police Station- Patliputra, District Patna.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Akhauri Kamal Kishore Sahay
For the Respondent/s : Mr.Binay Krishna

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 13-02-2019

Heard learned counsel for the parties.

This is an appeal under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for regular bail vide order dated 08.08.2018 passed by the learned Additional Sessions Judge-IV-cum-Special Judge, SC & ST Act, Patna in Special Case No.304 of 2018, arising out of Patliputra Police Station Case No.42 of 2018 registered under Sections 307, 324, 326, 302, 376(2)G, 120(B)/34 of the Indian Penal Code as well as Section 27 of the Arms Act and Sections 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The F.I.R. was lodged on recovery of a dead body of a girl. During investigation, co-accused, *Mukesh* confessed before the Police that this appellant was the assailant of the deceased by causing firearm injury.



Submission is that exculpatory confession of co-accused cannot be treated as evidence against the petitioner. Moreover, the confession was made while *Mukesh* was in Police custody. The petitioner is in custody since 09.03.2018. Earlier the prayer for bail was refused by this Court on 06.11.2018 in Criminal Appeal (SJ) No.3715 of 2018 with liberty to renew the prayer for bail after framing of the charges. The charges have already been framed on 04.12.2018. Further submission is that petitioner is ready to co-operate with the trial.

Considering the facts aforesaid, let the appellant, above named, be released 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 learned court below where the case is pending in connection with the aforesaid case, subject to the condition that the appellant shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellant.

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

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.02.2019
Transmission Date	14.02.2019

