

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.1701 of 2021

Arising Out of PS. Case No.-283 Year-2020 Thana- BETTIAH CITY District- West
Champaran

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Guddu Mahto @ Guddu Kumar @ Guddu Kumar Mahto aged about 20 years
Male S/o Raj Kumar Mahto, R/o village Baswariya Ward No.30 Daroga Tola,
P.S. Bettiah (Town), Dist West Champaran.

.. ... Appellant/s

Versus

The State of Bihar

... ... Respondent/s

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Appearance :

For the appellant : Mr. Bimlesh Kumr Pandey, Advocate
For the State : Ms.Usha Kumari No.1 Spl PP
For the informant : Mr. Sanjeev Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

3 01-06-2021 In view of the sudden resurgence of Covid-19 infection,
there is limited functioning of the High Court and, therefore, the
matter has been listed today for consideration through virtual
mode.

Heard learned counsel for the appellant, informant and
learned Spl PP for the State.

The appellant has preferred the present appeal under
Section 14A(2) of Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989 (for brevity, SC/ ST Act)
against the refusal of his prayer for regular bail vide order dated
19.12.2020 passed by learned Additional District and Sessions
Judge-1st-cum- Special Judge, West Champaran at Bettiah, in a
case registered under Sections 302/34 of the Indian Penal Code
and Sections 3(2)(v) a of SC/ST Act in connection with Bettiah
(Town) PS Case No. 283 of 2020.

The prosecution case is that the mother of the victim has



lodged an FIR stating that her son left home on a motorcycle. The previous day i.e. on 11.05.2020 some intimation has been received on her husband's mobile phone by one Sandip Ram informing him that the instant appellant along with Vikash Mahto, Jitesh Kumar and 2 or 3 unknown persons have indiscriminately assaulted her son by bamboo sticks. Thereafter she has rushed to the place of occurrence where she saw the named accused persons along with 2 or 3 unknown persons who fled away. While arranging for treatment of her son, he has died and was declared dead at the SKMCH Muzaffarpur.

The counsel for the appellant submits that having no criminal antecedents the appellant has been implicated by name in the FIR lodged one day after the occurrence. Informant however has alleged that her husband had received intimation on the date of occurrence itself. Falsity of the allegation is evident from the fact that the husband himself has also given a '*Fardbeyan*' on the day of occurrence itself which is recorded in the case diary. This is the first version and contrary to the allegations made by his wife, he has not named the petitioner, and has alleged that some unknown persons have assaulted his son. He has also not mentioned that he received any intimation from Sandip Ram. The first version has been ignored and the FIR lodged by the informant has been treated as the prosecution case. Sandip Ram who has allegedly intimated about appellant's involvement has not been examined as a witness in this case, and the appellant continues to be in custody since 12.10.2020.

The learned counsel for the informant and learned Spl. PP for the State have opposed the prayer for bail. It is submitted



that the appellant has specifically been named by the father of the victim.

In my opinion, a case for grant of regular bail is made out. The impugned order dated 19.12.2020 passed in connection with Bettiah (Town) PS Case No. 283 of 2020, requires interference by this Court, which is, accordingly set aside.

Considering the rival submissions, this appeal is allowed. The impugned order dated 19.12.2020 passed by learned Additional District and Sessions Judge-1st- cum-Special Judge, West Champaran at Bettiah, in connection with Bettiah (Town) PS Case No. 283 of 2020, is set aside.

Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-1st- cum-Special Judge, West Champaran at Bettiah, in connection with Bettiah (Town) PS Case No. 283 of 2020, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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