

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2615 of 2021

Arising Out of PS. Case No.-159 Year-2021 Thana- KHAJANCHI HAT District- Purnia

DEEPAK KUMAR MISHRA Son of Sri Prakash Mishra Resident of Village-
Raipura, P.S.- Bhawanipur, District- Purnea.

... .. Appellant/s

Versus

1. The State of Bihar
2. Munni Devi Daughter of Basudeo Mallik Resident of Village- Rupauli, P.S.-
Rupauli, District- Purnea, at present near Bikash Market, Renu Vihar, P.S.-
K. Hat, District- Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amit Kumar Anand
For the Respondent/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 23-09-2021 Heard learned counsel for the appellant and the State
through virtual mode.

Learned counsel for the appellant is directed to
remove the defect(s), as pointed out by the office, within a
period of four weeks after restoration of normalcy.

The appellant has challenged the order dated 23-03-
2021 passed by learned Ist Additional Sessions Judge-cum-
Special Judge, SC/ST Act, Purnea in connection with K. Hat
P.S. Case No. 159 of 2021 registered for the offences under
Sections-498A, 323, 302, 504 and 506 of the Indian Penal Code
and Section-3(2)(v) of SC & ST (Prevention of Atrocities) Act
whereby the prayer made on behalf of the appellant for grant of



anticipatory bail has been rejected.

Prosecution allegation in short is that the informant was married with the appellant. She gave birth to a female child with the wedlock of the appellant in hospital. It is further alleged that when the informant regained consciousness, she did not find her child and on query, her husband (appellant) told that her child died due to illness. The appellant abused the informant taking her caste name.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellant. The appellant has falsely been implicated in the present case due to petty family dispute. The appellant is alleged to be husband of the victim. The appellant denied with regard to his marriage with the victim. The victim has solemnized marriage with another person and from the said wedlock, the victim gave birth to three children. She was working in several houses and hotels as maid and only for oblique reason, she has got the case instituted against the appellant. There is no substantive evidence to suggest the commission of offence under Section-302 of the Indian Penal Code. Only suspicion has been raised by the victim that her child would have been done to death by the appellant.



The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant is named in the Complaint Case/F.I.R.

Considering the aforesaid facts and circumstances, this Court is inclined to set aside the order dated 23-03-2021 passed by learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea in connection with K. Hat P.S. Case No. 159 of 2021 by which the anticipatory bail of the appellant was rejected.

Accordingly, the order dated 23-03-2021 passed by learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea in connection with K. Hat P.S. Case No. 159 of 2021 is set aside. The present Criminal Appeal is *allowed*.

Let the appellant, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea in K. Hat P.S. Case No. 159 of 2021.

Once the normalcy is restored, the appellant shall



furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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