

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1833 of 2020

Arising Out of PS. Case No.-114 Year-2020 Thana- BIBHUTIPUR District- Samastipur

MUKESH KUMAR, age 24 years, Male, S/o Arvind Mahto, Resident of Village-Ward No.13, Singhia Buzurg South, P.S.-Bhibhutipur, District-Samastipur.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Mukesh Kumar No. 1, Advocate.
For the Respondent : Mr. Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 23-03-2021 Heard learned counsel for the appellant and learned Special P.P. for the State.

Learned counsel for the appellant is directed to remove the defects, as pointed out by the office, within a period of four weeks.

The matter relates to grant of anticipatory bail to the appellant in connection with Bibhutipur P.S. Case No. 114/2020, registered for the offences under Sections 302 and 120(B) of the I.P.C., 3(2)(V) of the SC/ST Act and 27 of the Arms Act.

The prosecution case, in short, is that on 16.05.2020 at 12 O'clock, one Baby Devi called the mother of the informant through her Mobile bearing No. 9102477299 near the house of Bimal Rai, *Tin Batiya Chowk*. When the informant carried her



mother on the *Bicycle* and reached near *Tin Batiya Chowk*, where Baby Devi was present there from before. The informant's mother and Baby Devi started to talk to each other and her mother said the informant to return back to the house then she returned back to her house. At about 4.30 P.M., through the mobile of the informant's mother a call was received on the mobile of the informant that her mother has been killed and her dead body is kept near the *Kachhi Road*. Thereafter, she alongwith her villagers went there and saw that her mother has been killed. Hence, it is claimed that Baby Devi and other unknown persons with conspiracy had killed the mother of the informant.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent. The appellant has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against him. The appellant is not named in the F.I.R. The name of the appellant has transpired in the present case during the course of investigation on the basis of confessional statement of co-accused Kuldeep Kumar. Except for this, there is no other substantive evidence to suggest the implication of the appellant in the present case. Neither there is any eye witness to the



alleged occurrence nor there is any circumstantial evidence to suggest the participation of the appellant in the present case. The alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant is not named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 10.07.2020, passed in connection with Bibhutipur P.S. Case No. 114/2020 by learned Ist Additional Sessions Judge, Samastipur, is set aside. The criminal appeal is allowed.

Accordingly, the appellant above named, in the event of arrest or surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) Only with two sureties of the like amount each to the satisfaction of the learned Ist Additional Sessions Judge, Samastipur, in connection with Bibhutipur P.S. Case No. 114/2020.

(Sudhir Singh, J)

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