

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2036 of 2020**

Arising Out of PS. Case No.-211 Year-2018 Thana- KHODAWANDPUR District- Begusarai

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SANJEET KUMAR Son of Ram Kumar Mahto Resident of Village- Ward
No.05, Bariyarpur Purvi, Bariarpur, Bariarpur Tola, Sirsi, P.S.-
Khodawandpur, District- Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Pritish Kumar Lal
For the Respondent/s : Special P.P.

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

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

This is an appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order dated 26.06.2020, passed by the learned court of Special Judge SC/ST (POA) Act, Begusarai in connection with Khodawandpur P.S. Case No. 211 of 2018 for the offence registered under Sections 302/34 of the Indian Penal Code and Sections 3(2) (v) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby and whereunder the prayer of the appellant for grant of regular bail has been rejected.

The FIR is stated to have been filed against unknown accused persons on the allegation that the son of the informant had gone in the night at about 9:00 P.M. on 04.10.2018, however, he



did not return back and on the next morning his dead body was found.

The learned counsel for the appellant has submitted that the appellant is innocent, has been falsely implicated in the present case and he is languishing in custody since 24.02.2020. The learned counsel for the appellant has further submitted that the name of the appellant has transpired in the present case after about four months of lodging of the FIR, upon the witnesses having taken the name of the appellant, nonetheless, apart from his own confessional statement made before the parties, which has got no evidentiary value in the eyes of law, no other material is available on record so as to connect the appellant with the murder of the deceased. Lastly, it is submitted that though the appellant is an accused in one other case but he is on bail in the said case.

Per contra, the learned Special P.P. for the State has submitted that the appellant has himself confessed to have committed the crime in question and to that effect his confessional statement has been recorded by the police. It is also submitted that the materials available in the case diary points out towards the son of the informant having left his house along with the appellant herein.

At this juncture, the learned counsel for the appellant has submitted that the appellant was last seen in the company of the



son of the informant at 7:00 P.M. as has been stated by one of the witness namely Dheeraj Choudhary, as is also recorded in paragraph no. 81 of the case diary, hence it is submitted that since admittedly the son of the appellant had left his house at 9:00 P.M., the present case cannot be said to be a case of last seen.

Having regard to the facts and circumstances of the case, considering the submissions of the learned counsel for the parties and taking into account the materials available on record as also those available in the case dairy, it is apparent that the only material available against the appellant is his confessional statement which in any view of the matter has got no evidentiary value in the eyes of law, hence prima facie it appears that minuscule evidence is available as against the appellant, thus I deem it fit and proper to admit the appellant to the privilege of regular bail.

Accordingly, the appellant, above named, is directed to 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 learned Special Judge, The Scheduled Caste & The Scheduled Tribes (Prevention of Atrocities) Act, 1989, Begusarai in connection with Khodawandpur P.S. Case No. 211 of 2018.

Accordingly, the order dated 26.06.2020, passed by the learned court of Special Judge SC/ST (POA) Act, Begusarai in



connection with Khodawandpur P.S. Case No. 211 of 2018, is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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