

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2041 of 2020

Arising Out of PS. Case No.-183 Year-2019 Thana- MAHISHI District- Saharsa

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DHARMENDRA MUKHIYA @ DHARMENDRE MUKHIYA SON OF
TARNI MUKHIYA RESIDENT OF VILLAGE - MANAUWAR, P.S.-
MAHISHI (JALAI O.P), DISTRICT - SAHARSA

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Bikramdeo Singh, Adv. Mr. Amarnath Jha, Adv.
For the State	:	Mr. Sadanand Paswan, Spl. PP.
For the Informant	:	Mr. Satish Kumar Singh, Adv. Mr. Dinesh Maharaj, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 24-02-2021 Heard the learned counsel for the
appellant, the learned counsel for the informant
and the learned Special Public Prosecution
appearing for the State.

The appellant seeks regular bail in
connection with Mahishi (Jalai OP) P.S. Case No.
183 of 2019, corresponding to Special Case No.
321 of 2019, registered for the offence punishable
under Sections 147, 148, 149, 341, 342, 302, 504,
506 of the Indian Penal Code and Sections 3(2)V of
the SC/ST Act.

The allegation is regarding the brother of the



informant having gone to bring medicine for the nephew of the informant, however, subsequently, the appellant herein is stated to have arrived at the door of the informant on the motorcycle of the deceased for the purposes of handing over the medicine to the informant and when the whereabouts of the deceased, namely, Rajesh, was asked from the appellant, he had disclosed that he was at his house and then subsequently, the said motorcycle was found parked in front of the house of the informant, however, the said Rajesh was found missing. It is further alleged that in the morning, the dead body of the said Rajesh was found lying in the field.

The learned counsel for the appellant has submitted that the appellant is innocent, he has been falsely implicated in the present case, he is having a clean antecedent and he is languishing in custody since 05.12.2019. The learned counsel for the appellant has further submitted that there is no eye-witness to the alleged occurrence and if the petitioner would have killed the deceased, there



was no reason for him to have gone to the house of the informant on the fateful night and that too, riding on the motorcycle of the deceased. It is also submitted that charge sheet has already been filed against the appellant and the investigation is complete as against him, hence, no prejudice will be caused to the prosecution in case bail is granted to the appellant. Lastly, It is submitted that the appellant has not been alleged to have abused the informant by taking his caste specific name, hence, no case is made out under the provisions of the SC/ST (POA) Act.

Per contra, the learned Special Public Prosecutor appearing for the State and Sri Denesh Maharaj, the learned counsel for the informant, have vehemently opposed the prayer for bail and have submitted that admittedly, there was political rivalry in between the deceased and the appellant and the appellant had also arrived at the house of the informant on the fateful night, riding the motorcycle of the deceased, whereafter the deceased was found missing and subsequently, his



dead body was found.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the appellant and taking into account the materials available on record as also those available in the case diary, minuscule evidence appears to be present in the case diary, as against the appellant, and moreover, there is no eye-witness to the alleged occurrence, apart from the fact that the appellant is languishing in custody since 05.12.2019 and he is having a clean antecedent, hence, I deem it fit and proper to admit the appellant to the privilege of regular bail, however, subject to certain conditions.

Accordingly, the above named appellant is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge III cum Special Judge Saharsa in connection with Mahishi (Jalai OP) P.S.Case No. 183 of 2019, corresponding to Special Case No. 321 of 2019.



It is further directed that the appellant would mark his attendance before the Officer-in-Charge of the concerned police station on each Monday of the week at 10:30 am. and in the event of two consecutive defaults, the present privilege of regular bail, being granted to the appellant herein, shall stand cancelled automatically.

(Mohit Kumar Shah, J)

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