

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.3636 of 2021**

Arising Out of PS. Case No.-58 Year-2020 Thana- NADI NAINAHA District- West  
Champaran

=====

Madan Mukhiya aged about 35 years (Male) S/o Late Sahdeo Mukhiya R/o  
village- Dhabelwa, P. S.- Jogapatti, District- West Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

**Appearance :**

For the Appellant/s : Mr. Umesh Chandra Verma, Adv.  
For the Respondent/s : Mr. Sadanand Paswan, Spl PP

=====

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

3      28-10-2021      Heard learned counsel for the appellant and learned Spl  
PP for the State.

Learned counsel for the appellant is expected to honour  
his undertaking given in the instant case for depositing the  
requisite court fee and to remove the defects as pointed out by  
office when called upon to do so by the office.

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  
02.06.2021 passed by learned 1<sup>st</sup> Additional Sessions Judge-  
cum-Special Judge SC/ST Act, West Champaran at Bettiah, in a  
case registered under Sections 302 and 201/34 of the Indian



Penal Code and Sections 3(ii)(va) of the SC/ST Act in connection with Bail Petition No. 1166 of 2021 arising out of Nadi P.S. Case No. 58 of 2020.

The prosecution case is that informant's uncle aged about 80 years old has been done to death by the instant appellant. It is the prosecution case that his uncle's land had been got transferred by the instant appellant in his favour and he was living with the instant appellant. He did not return home for 8-9 days and, on search, he was found missing. Later, dead body has been excavated from the earth when it was found that he died due to throttling.

The counsel for the appellant submits that other than suspicion, no material has come in the investigation as per the entire case diary. The fact is that the informant's uncle was serving the appellant as a guard for his fields. The appellant has no knowledge as to how and on what basis the murder of the informant's uncle has taken place. He has no concern with the same. The alleged motive assigned by the prosecution about transfer of lands has been found in the investigation to be 4-5 years prior to the alleged occurrence and, therefore, appears to be highly improbable and unsustainable. On his own volition, the appellant has surrendered in the Court on 28.01.2021. He



has no criminal antecedents.

The learned Spl. PP for the State has opposed the prayer for bail. He has submitted that the victim has died while he was rendering his services as a guard for the appellant's field.

In my opinion, a case for grant of regular bail is made out. The impugned order dated 02.06.2021, passed in connection with Bail Petition No. 1166 of 2021 arising out of Nadi P.S. Case No. 58 of 2020, requires interference by this Court, which is, accordingly set aside.

Considering the rival submissions, this appeal is allowed. The impugned order dated 02.06.2021, passed by learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge SC/ST Act, West Champaran at Bettiah, in connection with Bail Petition No. 1166 of 2021 arising out of Nadi P.S. Case No. 58 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 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge SC/ST Act, West Champaran at Bettiah, in connection with Bail Petition No. 1166 of 2021 arising out of Nadi P. S. Case No. 58 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)**

shyambihari/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

