

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.346 of 2021**

Arising Out of PS. Case No.-410 Year-2020 Thana- PHULWARISHARIF District- Patna

DHARMENDRA KUMAR Son of Sri Upendra Sao Resident of Nagar Nigam  
Colony, P.S.- Phulwari Sharif, District - Patna

... .. Appellant

Versus

The State of Bihar

... .. Respondent

**Appearance :**

|                      |   |                                      |
|----------------------|---|--------------------------------------|
| For the Appellant/s  | : | Mr. Arvind Kumar Mouar, Advocate     |
| For the Informant    | : | Mr. Shiv Ganga Kumar Gupta, Advocate |
| For the Respondent/s | : | Mr. Sadanand Paswan, Spl. P.P.       |

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD  
ORAL ORDER**

3      19-03-2021              Learned counsel for the appellant undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellant, learned counsel for the informant and learned Spl. P.P. for the State.

The appellant in the present case is seeking to set aside the order dated 05.10.2020 passed by learned Special Judge SC/ST, Patna in connection with Special Case No. 327 of 2020 arising out of Phulwarisharif P.S. Case No. 410 of 2020 registered for the offences punishable under Sections 302, 201, 34 of the Indian Penal Code and Sections 3 (11)(e) of SC/ST Act.

Learned counsel for the appellant submits that as per the prosecution story the son of the informant (deceased) went



away with Dharmendra Kumar and Sujeet Kumar. When the son of the informant did not return, the informant along with the villagers started searching for his son and on inquiry from this appellant and other co-accused, found that the son of the informant has been murdered and his dead body was lying in the pond.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case on mere suspicion. It is further submitted that the post-mortem report is not showing any external injury on the body of the deceased and also the similarly situated has been granted bail by a learned coordinate Bench of this Court. Learned counsel submits that the appellant has got no criminal antecedent and is in custody since 26.07.2020.

Learned Spl. P.P. for the State has opposed the prayer for regular bail of the appellant.

Having regard to the facts and circumstances of the case, wherein it is the submission of the learned counsel for the appellant that in course of investigation no material at all has been collected by the I.O. to demonstrate that this appellant had any role to play in the drowning of the son of the informant in the pond, the post-mortem report is not showing any external



injury on the body of the deceased and in the case diary one of the witnesses namely Rohit Kumar has stated that he had seen the deceased going towards the pond of Ganesh Singh and he was not wearing any cloth, the submission of the learned counsel for the appellant that those were summer days and it seems that son of the informant has died due to asphyxia due to drowning, further submission that co-accused Sujit Kumar who is similarly situated has been released on bail by a learned coordinate Bench of this Court in Cr. Appeal (SJ) No. 826 of 2021, the submission of the learned counsel for the appellant that the appellant is similarly situated could not be controverted by the learned counsel for the informant and learned Spl.P.P. for the State, let the impugned order be set aside.

Let the appellant above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge SC/ST Act-cum-A.D.J.-X at Patna in connection with Special Case No. 327 of 2020 arising out of Phulwarisharif P.S. Case No. 410 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with



the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedents of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bond in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application is disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

Rishi/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

