

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.227 of 2021

Arising Out of PS. Case No.-16 Year-2018 Thana- MUSRIGHRARI District- Samastipur

Abhay Kumar @ Shambhu Choudhary @ Shanbhu Choudhary S/O Late Shiv Nath Choudhary Resident Of Village Rupauli, P.S.-MUSRIGHARARI, District-Samastipur.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Akshansh Ankit, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 16-08-2021 Heard learned counsel for the appellant and learned Spl. P.P. for the State through virtual mode.

Counsel for the appellant is directed to remove the defect(s), as pointed out by the office, within a period of four weeks from the date of restoration of normalcy.

The matter relates to grant of anticipatory bail to the appellant in connection with a case registered for the offences under Sections 302, 201/34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, 1989.

The prosecution case, in short, is that the brother of the informant, namely, Lakhindra Ram was taken away by the appellant about a year ago for employment in the Line Hotel of



co-accused Nunu Choudhary. For almost six months the appellant used to give monthly salary of Rs.5000/- to the mother of the informant. After six months the appellant stopped paying monthly salary to the brother of the informant. The mother of the informant used to go to the house of the appellant and demanded payment of salary. On 03.02.2018, dead body of brother of the informant was found hanging on a tree in orchard of co-accused Nunu Chaudhary. The informant suspected that the appellant and co-accused Nunu Chaudhary murdered the brother of the informant and tied his body on the tree.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent and there is no allegation of tampering of witnesses alleged against the appellant. The appellant has falsely been implicated in the present case. As per the F.I.R., at best it is a case of last seen. Except for this, there is no other circumstantial evidence to suggest the participation of the petitioner in the alleged occurrence. There is no eye witness to the alleged occurrence. The alleged occurrence has not taken place within public view. Hence no offence under the SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the



appellant is named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 16.10.2020, passed by the learned Special Judge, SC/ST Act-cum-Additional Sessions Judge-I, Samastipur vide A.B.P. No.1602 of 2020 in connection with Musrigharari P.S. case No.16 of 2018, is set aside. The criminal appeal is allowed.

Let the appellant, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Special Judge, SC/ST Act-cum-Additional Sessions Judge-I, Samastipur in connection with Musrigharari P.S. case No.16 of 2018.

Once the normalcy is restored, the appellant shall furnish bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

Narendra/-

U		T	
---	--	---	--

