

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.656 of 2021

Arising Out of PS. Case No.-134 Year-2019 Thana- JALALGARH District- Purnia

Chandan Sharma @ Das @ Chandan Das, aged about 23 years, Gender- Male, Son of Laxman Sharma @ Laxman Das Resident of Village - Nishara Ekamba, P.S.- Jalalgarh, District - Purnea.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bijendra Kumar Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan Spl. PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

7 14-07-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

2. Heard learned counsel for the appellant and learned Spl PP for the State.

3. 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 21.09.2020, passed by learned 1st Additional Sessions Judge- cum- Special Judge, SC/ST Act, Purnea, in a case registered under Sections 302/34 of the Indian Penal Code and Sections 3(i)(r), 3(2)(r), 3(2)(v) of the SC/ ST Act, in connection with Jalalgarh PS Case No.134 of 2019, SC/ST Case No. 128 of 2019, CIS No. 128 of 2019.

4. The FIR alleges that the informant's husband has gone



with one of his friend, namely, Sonu Kumar Mahto. They have returned after visiting the fair and went out again whereafter the husband of the informant has not returned. Next day in the morning the dead body of the husband of the informant has been recovered from a canal.

5. The learned counsel for the appellant submits that the appellant is not named in the FIR. His name has also been stated by co-accused with whom the deceased has allegedly gone. Statement of one Chhotu Kumar @ Chhotu Mandal who was arrested forms the basis of his implication in this case whereafter the appellant has been arrested from his house on 04.11.2019. The further submission is that there is no recovery of any incriminating material from possession of the petitioner. Even the motorcycle, on which, the victim had gone has been recovered from a third person. The appellant is a man of clean antecedent and other than the confessional statement of co-accused, having no evidentiary value, there is no material to connect the appellant with the occurrence.

6. The learned Spl. PP for the State has opposed the prayer for bail .

7. In my opinion, a case for grant of regular bail is made out. The impugned order dated 21.09.2020, passed in connection with Jalalgarh PS Case No.134 of 2019, SC/ST Case No. 128 of 2019, CIS No. 128 of 2019, requires interference by this Court, which is, accordingly set aside.

8. Considering the rival submissions, this appeal is allowed. The impugned order dated 21.09.2020, passed learned 1st Additional Sessions Judge- cum- Special Judge, SC/ST Act, Purnea, in connection with Jalalgarh PS Case No.134 of 2019, SC/ST Case No. 128 of 2019, CIS No. 128 of 2019, is set aside.



9. 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 1st Additional Sessions Judge- cum- Special Judge, SC/ST Act, Purnea, in connection with SC/ST Case No. 128 of 2019, CIS No. 128 of 2019 arising out of Jalalgarh PS Case No.134 of 2019, 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)

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