

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.142 of 2022

Arising Out of PS. Case No.-95 Year-2021 Thana- BIBHUTIPUR District- Samastipur

Pritam Kumar, Son of Munna Mahto, Resident of Village - Kalyanpur South
Samartha, P.S.- Bibhutipur, Distt.- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Deepak Choudhary @ Bala Choudhary, Son of Ramsogarath Choudhary
Resident of Village - Kalyanpur North, P.S.- Bibhutipur, Distt.- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Suneil Kumar Thakur, Advocate
For the State	:	Mr.Sadanand Paswan, APP
For the Respondent No.2 :		Mr. Vishwajit Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 29-09-2022

Heard learned counsel for the appellant, learned
Spl.PP for the State and learned counsel for the respondent no.2.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks from the date of
resumption of physical filing and physical removal of defect.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail vide
order dated 25.10.2021 passed by the learned Additional
Sessions Judge-1st, Samastipur/Special Judge, SC/ST Act,
Samastipur in connection with Bibhutipur P.S. Case No. 95 of
2021, registered for the alleged offences under Sections 302/34



of the Indian Penal Code and Section 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution case, the dead body of the son of the informant was found hanging in the toddy shop of the informant. The informant showed his suspicion that due to love affair of his son with the daughter of the co-accused Arvind Mahto, he was killed by this appellant and the co-accused along with other persons and the dead body was hanged. The appellant is stated to be a friend of the deceased.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case merely on suspicion. From the FIR, it is clear that the appellant was a friend of deceased and no reason has been given why he would commit murder of his friend. There has been inordinate delay in lodging the FIR and this leaves room for false implication. The learned counsel further submits that no material has come on record to connect the appellant with the alleged occurrence. The appellant is in custody since 12.08.2021 and is having clean antecedent. The charge sheet has been submitted.

Learned Spl.P.P. as well as learned counsel appearing on behalf of the respondent no.2 oppose the prayer for bail of



the appellant. It has been submitted by the learned counsel for the informant that call detail reports of mobile phones of the appellant and the co-accused show they were in constant touch with each other. The hanging of the deceased in the shop was not possible as it has been mentioned that the height of the shop was only 6 ft. The learned counsel further submits that the post mortem report shows cause of death to be asphyxia due to hanging.

Perused the records.

Having regard to the facts and circumstances and the submission made on behalf of the parties and considering the distinct lack of material to connect the appellant with the offence as alleged and further considering the period of custody of the appellant along with submission of charge sheet as well as clean antecedent, the appellant above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1st, Samastipur/Special Judge, SC/ST Act, Samastipur, in connection with Bibhutipur P.S. Case No.95 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:



- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal stands allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.10.2022
Transmission Date	

