

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.166 of 2022**

Arising Out of PS. Case No.-102 Year-2021 Thana- BHANGWANPUR HAT District- Siwan

MALINDRA SINGH @ MANINDRA SINGH @ TUFANI SINGH Son of
Kushwar Singh Resident of Village - Paniya Dih, P.S.- Bhagwanpur Hat,
Distt.- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. Ram Awadhesh Ram Late Babulal Ram R/O Village-Ratan Parauli, Tiwari
Tola, P.S.-Bhagwanpur Hat, District-Siwan

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ajay Kumar Tiwary
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER**

4 21-12-2022 Heard Ld. counsel for the appellant and Ld. Special

Public Prosecutor for the State.

Nobody is present on behalf of the informant

despite valid service of notice.

This criminal appeal has been filed to enlarge the

appellant on bail, impugning the order dated 17.12.2021,

passed by the Ld. 1st Addl. Sessions Judge cum Special

Judge, Siwan., in connection with Special Case No. 72 of

2021, arising out of Bhagwanpur Hat P.S. Case No. 102 of

2021, whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is



that when the informant and his family members were doing the centering work, the accused-appellant and his associates reached there and assaulted his brother with rod, hockey stick and other weapons, due to which he sustained head injury. Thereafter, they took him to the hospital but on the way, he succumbed to the injuries.

The learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that there is general and omnibus allegation against the accused-persons including the appellant. There is no allegation of any specific overt act by the accused-appellant and as per the post-mortem report, the alleged victim had died due to haemorrhage on account of injury on his head and who has caused this injury is not clear from the FIR. He further submits that some of the other co-accused persons have already been enlarged on bail by a co-ordinate Bench of this Court *vide* order dated 11.01.2022, passed in Cr. Appeal (SJ) No. 4403 of 2021. He further submits that investigation in this case is complete and charge-sheet has already been submitted. However, he



is not sure whether charge has been framed or not.

The appellant has been languishing in jail since 04.06.2021.

It is also stated in paragraph no. 2 of the appeal that the appellant has not moved earlier before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 of the appeal that the appellant has no criminal antecedents.

However, the Ld. Special Public Prosecutor for the State vehemently opposes the prayer of the appellant for bail.

Considering the aforesaid facts and circumstances, the appeal is allowed, setting aside the impugned order dated 17.12.2021, passed by the Ld. 1st Addl. Sessions Judge cum Special Judge, Siwan and directing the appellant to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Ld. 1st Addl. Sessions Judge cum Special Judge, Siwan, in connection with Special Case No. 72 of 2021, arising out of Bhagwanpur Hat



P.S. Case No. 102 of 2021, **after framing of charge, if not already framed**, on the following conditions:

(i) The appellant will make himself available for interrogation by a police officer/court as and when required.

(ii) The appellant will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The appellant 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.

(iv) In case, it is brought to the notice of the court below that the appellant has any criminal antecedent, the learned court below shall cancel the bail bond of the appellant after hearing him and getting satisfied that the appellant has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court



below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the appellant.

The appeal stands allowed accordingly.

The learned counsel for the appellant is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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