

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.240 of 2022**

Arising Out of PS. Case No.-416 Year-2021 Thana- KATIHAR NAGAR District- Katihar

ABHISHEK MAHTO @ MISTI Son of Jay Prakash Mahto @ Prakash Mahto
Resident of Village - Santoshi Chowk, Driver Tola, P.s.- Katihar Town, Distt.-
Katihar.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Bimal Kumar, Advocate
For the Respondent/s	:	Mrs.Usha Kumari 1, Spl.P.P.
For the Informant	:	Mr.Adarsh Singh, Adv. Ms.Priyanka Singh, Adv.

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

2 19-05-2022 Heard learned counsel for the appellant, learned counsel
for the informant and learned Special Public Prosecutor for the
State.

Learned counsel for the appellant undertakes to remove
the defects within four weeks of resumption of normal court
proceedings. In the eventuality of non-removal of defects within
stipulated period, office will place the matter before the Bench.

This is an appeal under section 14(A) (2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
'SC/ST Act') against the refusal of prayer for bail vide order
dated 07.12.2021, passed by learned A.D.J. -Ist-cum-Special



Judge, Katihar in connection with Katihar Town P.S. Case No.416 of 2021, registered under sections 302, 120(B)/34 of the IPC, section 27 of the Arms Act and section 3(2)(V), SC/ST Act.

Allegedly, the accused persons named in the F.I.R. including the appellant, under a conspiracy called the brother of the informant and fired upon him due to which he died in course of treatment.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in the case. The accusation does not constitute any offence under SC/ST Act is made out inasmuch as there is no allegation that the appellant has abused the informant or his brother. The allegation levelled against the appellant is not specific rather general and omnibus in nature. It is further submitted that no mark of blood was found either at the alleged place of occurrence or on road which goes towards Santoshi Chowk. The appellant has been languishing in custody since 10.08.2021 and has no criminal antecedent. It is submitted that some of the co-accused have already been enlarged on bail.

Learned Spl. PP for the State as well as learned counsel for the informant opposed the prayer for bail by submitting that it has come in the case diary that some witnesses have identified



the appellant. It is further submitted that trial is going on and one of the witness has been examined out of the 13 charge sheet witnesses. Some of the appellants have been granted bail after framing of the charge.

In the facts and circumstance of the case, considering that the trial is going on and there is no possibility of concluding the trial in the near future as only one charge sheet witness has been examined till date, the above named appellant is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J. -Ist- cum- Special Judge, Katihar, in connection with Katihar Town P.S. Case No.416 of 2021, with the following conditions:

(1) One of the bailors will be own close relative of the appellant who will give on affidavit genealogy as to how he is relative to appellant. The bailor will also undertake to inform the court if there is any change in the address of the appellant.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the appellant is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.



(3) The appellant shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The appellant shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(5) The appellant shall appear before the Police Station of his local area in the first week of each month till the disposal of the present case.

The impugned order is accordingly set aside and the appeal is allowed.

Parties are directed to co-operate in the trial and the learned trial court is directed to conclude the trial as expeditiously as possible, by taking it on day to day basis.

(Anjani Kumar Sharan, J)

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