

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.286 of 2022

Arising Out of PS. Case No.-222 Year-2021 Thana- PIPRAKOTHI District- East Champaran

Nagina Paswan son of Mathura Paswan, Resident of Village-Dhekha
Vishnupur, Police Station- Piprakothi, District-East Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Kumar, Advocate.

For the Respondent/s : Mr. Binay Krishna, Slp.PP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 30-06-2022 Learned counsel for the Appellant is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Binod Kumar, learned counsel for the Appellant as well as learned Special Public Prosecutor for the State.

This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 02.11.2021 passed by the learned Additional Sessions Judge 1st -cum-Special Judge, East Champaran, Motihari in connection with CIS No. 259 of 2021 arising out of SC/ST (Pipra Kothi) P. S. Case No. 222 of 2021 registered for the offences punishable under Sections 302, 120(B) read with 34 of the Indian Penal Code and Sections 3(i)(r)(s), 3(2)(v) of the SC/ST (Prevention



of Atrocities) Act.

As per the prosecution case, it is alleged that on 07.09.2021, the respondent received an information that his son was killed by someone and his body was thrown. On the aforesaid information, the informant went there and found the dead body of his son, thereafter, suspicion has been raised that all the F.I.R. named accused persons might have killed his son on account of previous enmity. It is also alleged that just 10-12 days prior to the occurrence, four accused persons, namely, Bhola Mahto, Langtu Mahto, Asharfi Mahto and Arjun Mahto had come to the house of the respondent and threatened them with dire consequences.

Learned counsel appearing on behalf of the Appellant submitted that except the suspicion there is no material on record, which suggests the complicity of the appellant. However, even during the course of the investigation, there is no eye-witness to the alleged occurrence. It is further submitted that the appellant is in custody since 23.09.2021, though the investigation of the present crime has already been concluded and the charge-sheet has also been submitted but the impugned order has been passed without considering the fact that there is no material against the appellant.



On the other hand, learned Special Public Prosecutor for the State opposes the bail application and submits that the appellant is named in the F.I.R. and suspicion has been raised against him.

Having considered the submissions made on behalf of the parties and taking into account the fact that except suspicion there is no other material, which suggests the complicity of the appellant in the present case and moreover, having clean antecedent, the appellant is in custody since 23.09.2021, let the appellant, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 1st -cum- Special Judge, East Champaran, Motihari in connection with SC/ST (Pipra Kothi) P. S. Case No. 222 of 2021.

In view of the aforesaid fact, the impugned order dated 02.11.2021 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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