

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.406 of 2022

Arising Out of PS. Case No.-412 Year-2019 Thana- BARHARA District- Bhojpur

Mukesh Yadav S/O Manu Yadav Resident of Village- Saraiyan, P.S.- Barahara
(Krishnagarh), District- Bhojpur.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Bhola Nut Son of Late Jamuna Nut R/o- vill Saraiya, P.S.- Krishnagarh,
Dist-Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sheo Jee Mishra, Advocate

For the Respondent/s : Mr. Binay Krishna, SPP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 01-09-2022 Heard Mr. Sunil Kumar learned counsel for the

appellant as well as Mr. Madanjeet Kumar, learned counsel for

the informant and learned SPP for the State.

The present appeal under Section 14(a) (2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, (hereinafter referred to as the SC/ST Act)
preferred against the order dated 14.12.2021 passed by the
learned Additional Sessions Judge, Bhojpur at Ara in
connection with Barhara (Krishna Garh) P.S.Case No. 412 of
2019 instituted for the offence under Sections 364, 302, 201 of
the Indian Penal Code and section 3(2) (VA) of SC/ST Act
whereby prayer for bail of the appellant has been rejected.



As per the prosecution case, it is alleged that the son of the informant was missing in the night on 12.11.2019 and the informant expressed his suspicion that someone taken away her son by alluring him. The FIR has been instituted on 14.11.2019. It appears that during the course of investigation statement of informant was recorded and he suspected the complicity of the appellant and thereafter, the appellant and other co-accused persons had taken into custody and thereafter, they have been granted bail by the learned 3rd Additional Sessions Judge, Bhojpur at Ara vide order dated 14.12.2021, the copy of which has been brought on record, which has been annexed as Annexure -4 series. However, soon after releasing the appellant and another co-accused persons they were taken into custody and the present appeal has been filed.

Learned counsel appearing on behalf of the appellant submits that FIR has been instituted with regard to missing of son of the informant suspecting the hands of appellant. However, during the course of investigation, it has come that the accused persons were found moving near the place of occurrence and as such suspicion has been raised about the involvement of the appellant. Further submits that subsequently, the present case was amalgamated with first case and the



investigation has continued in connection with both the cases .
He further submits that other co-accused persons having identical allegation have moved before the Hon'ble Court in Cr. Appeal (SJ) 2842 of 2021 and considering the entire aspect of the matter, the co-ordinate Bench of this Court has been pleased to allow bail to the co-accused Manu Yadav and Vikash Yadav vide order dated 08.07.2021. He further submits that the appellant is having fair antecedent and is in custody since 18.11.2021.

On the other hand, learned counsel for the informant/ respondent no. 2 as well as learned APP vehemently opposed the bail application of the appellant and submits that it is a case of brutal murder of son of the informant by strangulation and thereafter, his dead body was burnt by all the co-accused persons. In course of investigation ample materials have come which suggest the complicity of the appellant as they were found moving near the place of occurrence.

Considering the submission made on behalf of the appellant and taking into consideration the fact that identically situated co-accused persons have already been allowed bail by the learned co-ordinate Bench of this Court and moreover, there is no eye witness to the alleged occurrence and the entire case



is based on circumstantial evidence, apart from the fact that the appellant having fair antecedent is in custody since 18.11.2021, let the above named appellant, be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge- Bhojpur at Ara - cum Special Judge SC/ST in connection with Barahara (Krishnagarh) P.S.Case No. 412 of 2019.

Accordingly, the impugned order dated 14.12. 2021 is set aside and the appeal is hereby, allowed.

(Harish Kumar, J)

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