

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 825 of 2022

Arising Out of PS. Case No.-211 Year-2021 Thana- BAKHTIARPUR District- Saharsa

Md. Nehal S/o Md. Isha R/o village- Ganga Prasad, Ward No. 6, Sitanabad,
P.S.- Bakhtiyarpur, District- Saharsa

... .. Appellant/s

Versus

1. The State of Bihar.
2. Debu Das S/o Late Vilas Das Resident of Kewatgama, Panchayat-
Laxmipur, Chandiasthan, Ward No. 12, P.S.- Kumarkhand, District-
Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pramod Mishra, Advocate.
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. PP.
For the Respondent No.2:	:	Mr. Abhay Kumar Kashyap, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 20-10-2022 Learned counsel for the appellant is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Pramod Mishra, learned counsel appearing on behalf of the appellant, Mr. Abhay Kumar Kashyap, learned counsel for informant-respondent no.2 and learned Spl. PP for the State.

The present appeal under Section 14(A) (2) of the Schedule Caste/Schedule Tribe, Prevention of Atrocities Act, (hereinafter referred to as 'SC/ST Act') has been preferred against the order dated 25.01.2022, passed by learned



Additional Sessions Judge-III, Saharsa -cum- Special Judge, in connection with Special Case No. 78 of 2021, arising out of Bakhtiyarpur P.S. Case No. 211 of 2021, registered for the offences punishable under Sections 302, 201 and 120B of the Indian Penal Code and charge-sheet has been submitted under Sections 302, 201, 120B/34 of the Indian Penal Code and Sections 3(2)(va) and 3(2)(v) of the SC/ST Act, whereby the prayer for grant of regular bail of the appellant has been rejected.

The prosecution case is based on the written report of the informant, alleging therein that he had two sons Deepak Das and Fulchand kumar, both of them used to work at Delhi. The informant's son Deepak Kumar, went to the Delhi, where he found his younger brother was not present, thereafter, he started searching his younger brother, but could not succeeded. It is further alleged that one friend of the informant's elder son saw a video clip of news channel, from which he identified the dead body of his younger brother, later on they came to know that the deceased had illicit relationship with Gudiya Khatoon and said Gudiya Khatoon along with her husband and other family members called his brother in her village and thereafter all of them by hatching a conspiracy, killed him.



Learned counsel for the appellant submits that from the materials on record, it is evident that on 21.05.2021, the dead body of the son of the informant was found in a orchard, hanging on a tree and thereafter, on 24.06.2021 a UD Case No. 03 of 2021, was registered. He further submits that from the FIR, it would be evident that the son of the informant was traceless, since long but neither any Sanaha nor any complaint has been lodged. He also submits that entire case is based on suspicion and only on the fact that deceased had illicit relationship with the wife of the appellant and as such all the family members including the appellant has implicated in this case. He next submits that there is neither any eyewitness to the alleged occurrence nor the appellant was seen along with the deceased, either before or after the occurrence. He last submitted that the appellant having fair antecedent, is in custody since 25.01.2022.

Leaned counsel appearing on behalf of informant-respondent no.2 has submits that the trial is at the fag end and almost all the prosecution witnesses have been examined, save and except the doctor and the I.O. He further submits that during the course of investigation the witnesses have supported the prosecution case.



On the other hand learned Spl. PP also opposed the prayer of the appellant and submits that during the course of investigation, it has come that the deceased had illicit relationship with the wife of the appellant and the deceased used to transfer money in the account of co-accused Guriya Khatoon and on the alleged date of occurrence Gudiya Khatoon was present in her village, where the deceased was found dead, however, he clearly submitted that from the call detail record, the tower location of the appellant suggests that he was at New Delhi.

Regard being had to the submissions made on behalf of the parties and considering the materials available on record and also the fact that the trial is at the fag end and the same is likely to be concluded in a short span of period, this court is not persuaded to enlarge the appellant on bail, for present.

However, it is expected that the learned Trial Court will take all recourse and endeavor to expedite and conclude the trial as early as possible, preferably within a period of three months.

The Senior Superintendent of Police, Saharsa, is also directed to render all his assistance in order to ensure the appearance of the doctor and the I.O. So, that the trial must be



concluded within the aforesaid period.

In case no substantive progress would be done, the appellant would be at liberty to renew his prayer for bail after three months with the status of the trial.

(Harish Kumar, J)

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