

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.787 of 2022

Arising Out of PS. Case No.-404 Year-2021 Thana- MASAUDHI District- Patna

Bauna Bind @ Baban Bind S/o of Yogendra Bind @ Padarath Bind, Vill-
Madhochak, P.S- Masaurhi, Dist- Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shruti Sinha, Adv

For the Respondent/s : Mr. Usha Kumari APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 08-09-2022 From the office notes, it appears that notice is validly served upon the respondent no. 2 but no one appears on behalf of the respondent no. 2

Heard learned counsel for the appellant as well as learned Special Public Prosecutor 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 (POA) Act) preferred against the order dated 20.12.2021 passed by the learned Additional Sessions Judge-III cum Special Judge, Patna SC/ST (POA) Act, in connection with Masaurhi P.S.Case No. 404 of 2021 instituted for the offence under Sections 302/34 of the Indian Penal Code and section 3(2)(v) SC/ST Act , whereby prayer for bail of the appellant has been rejected.



The prosecution case is based on fardbeyan of the informant, who alleged that in the evening at about 5 pm on 13.08.2021 co-accused Puranchand Bind came and forcibly took his brother for taking drink and thereafter, the appellant and his father Jogindra Bind after getting him drunk brutally assaulted with iron rod and garasa and due to which he succumbed to injuries.

Learned counsel for the appellant submits that admittedly, respondent no. 2 is not an eye witness to the alleged occurrence. He next submits that from the FIR, it is evident that it is co-accused Puranchand Bind, who had taken away the brother of the respondent no. 2. However, only on account of fact that five years ago his brother had quarreled with Jogindra Bind in which his brother had stabbed and due to fear, he had gone to Jehanabad because co-accused Puranchand Bind, Banua Bind @ Baban Bind and Jogendra Bind used to threaten him by abusing and taking his casts name. He next submits that the appellant is in custody since 15.08.2021 having fair antecedent and save and except suspicion on account of previous animosity there is no material which suggest the complicity of the appellant.

On the other hand, learned counsel for the State



opposed the bail application and submits that specific allegation has been levelled against the appellant along with other co-accused persons that they committed murder of brother of the informant.

Having regard to the submission made on behalf of the parties and considering the fact that the appellant is not an eye witness to the alleged occurrence even during the course of investigation, none of the person has come claiming themselves to be an eye witness and the entire case is based on suspicion, apart from the appellant having fair antecedent and is in custody since 15.08.2021, let the above named appellant, be enlarge on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge/ Special Judge, Patna in connection with Masaurhi P.S.Case No. 404 of 2021

Accordingly, the impugned order dated 20.12.2021 is hereby, set aside and the present appeal stands allowed.

(Harish Kumar, J)

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