

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.835 of 2022

Arising Out of PS. Case No.-256 Year-2020 Thana- SAHPUR District- Patna

Monu Kumar @ Monu Sarkar Son Of Rajehwar Prasad @ Rajeshwar Ray
R/O Vill -Shiwalapar, Near Shiv Mandir, Neura, P.S.- Shahpur, District- Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Singh, Adv
For the Respondent/s : Mr. Sadanand Paswan, SPP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 29-09-2022 Heard Mr. Sanjay Kumar Singh, learned counsel for

the appellant as well as learned Special Public Prosecutor for the

State.

Earlier notice was issued to the respondent no. 2
under both process, however neither the service report nor
acknowledgment has been received. Again vide order dated
08.09.2022, the learned counsel for the State was directed to
intimate the respondent no. 2 with regard to pendency of the
case through the senior Superintendent of the police, Patna.
Today, it has been informed that S.S.P, patna and concerned
SHO has already been informed. However, none appears on
behalf of respondent no. 2.

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 01.02.2022 passed by the learned Special Judge, Patna SC/ST Act, in connection with Special Case no. 42 of 2021 arising out of Shahpur P.S.Case No. 256 of 2020 instituted for the offence under Sections 302 and 393 of the Indian Penal Code and section 3(2)(va) SC/ST Act , whereby prayer for bail of the appellant has been rejected.

It is alleged that, while the father of the informant was sleeping in his house, unknown thief aged about 25-30 years entered into the house of the informant to commit theft and when the father of the informant protested he was stabbed with knife. It is also stated that on being taken to PMCH, the doctor declared his father dead.

Learned counsel for the appellant submits that admittedly, the FIR has been instituted against unknown thief. Further during the course of investigation, the police apprehended the appellant on 20.08.2020 in connection with Shahpur P.S.Case No. 310 of 2020 registered for the offences punishable under section 399, 402, 414 of the Indian Penal Code and section 25(1-B), 26/35 of the Arms Act and thereafter the confessional statement of the appellant was recorded by the police and he has been remanded in all the ten cases which has



been mentioned in Paragraph no. 3 of the memo of appeal. However, he submits that out of ten cases, the appellant is on bail in seven cases. He next submits that on the confession of the petitioner one Rakesh Kumar @ Kallu and Manish Kumar @ Bithla was also made accused. However, both of them have been granted bail by different co-ordinate Bench of this Court vide order dated 05.07.2021 and 01.09.2021, the copies of which have been brought on record by way of Annexure -2 series. He last submits that the appellant is in custody since 03.10.2020.

On the other hand, learned counsel for the State opposed the bail application and submits that during the course of investigation, the statement of mother of the informant was recorded wherein she has stated that on the alleged date of occurrence, five persons were present on the nearby roof and she recognized the appellant and another persons. He also submits that the appellant has multiple criminal antecedent.

Regard being had to the submission made on behalf of the parties and considering the fact that the name of the petitioner has transpired on mere confession and there is no other material, suggesting the complicity of the petitioner in the present crime and petitioner is in custody since 03.10.2020, 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 Special Judge,(SC/ST) Act, Patna in connection with Shahpur P.S.Case No. 256 of 2020subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled. .

Accordingly, the impugned order dated 01.02.2022 is hereby, set aside and the present appeal stands allowed.

(Harish Kumar, J)

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