

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.938 of 2022

Arising Out of PS. Case No.-14 Year-2021 Thana- BIND District- Nalanda

Sarovar Prasad, Son Of Late Kameshwar Prasad, R/O Village- Rasalpur, P.S.-
Bind, District- Nalanda

... .. Appellant/s

Versus

1. The State of Bihar
2. Virendra Paswan son of late Ramdhin Paswan village- Rasalpur, P.S.-Bind,
District-Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Raj Kishor Prasad, Advocate
For the State	:	Mrs. Usha Kumari I, Spl.PP
For the Informant	:	Mr. Rahul Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 25-08-2022

Heard learned counsel for the appellant, learned
counsel for the State and learned counsel for the informant.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks from the date or
resumption of physical filing and physical removal of defect.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for abail by
order dated 19.01.2022 passed by learned Additional Sessions
Judge-3-cum-Special Judge (SC/ST) Act, Nalanda at
Biharsharif in connection with Bind P.S. Case No. 14 of 2021
registered for the alleged offences under Sections 302, 120B



and 34 of the Indian Penal Code and Sections 3 (1)(r)(s)/3 (2) (v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, two sons of the informant were murdered by slitting their throats and the informant named 13 co-accused persons along with some unknown as accused who murdered his sons. The name of the appellant transpired during investigation.

Learned counsel for the appellant submits that the appellant has been falsely implicated in this case and except for confessional statement of co-accused Jitendra Kumar, nothing has come against this appellant during the whole investigation. Even the confessional statement of this appellant was recorded under coercion. No recovery has been made from this appellant or at his instance. The tower location of the appellant is quite natural as he is also the resident of same locality as is the informant. There is no eye-witnesses to the alleged occurrence. The co-accused, who named this petitioner for his involvement in this case, has been granted bail by a Co-ordinate Bench vide order dated 16.07.2021 passed in Cr. Appeal (SJ) No. 2254 of 2021 and another co-accused Raushan Kumar has also been granted bail by a Co-ordinate Bench of this Court vide order



dated 24.02.2022 passed in Cr. Appeal (SJ) No. 3368 of 2021. The appellant is in custody since 27.05.2021 and charge-sheet has already been submitted.

Learned counsel appearing on behalf of the informant as well as learned Special PP opposes the submission made on behalf of the appellant. Learned counsel for the informant submits that it is a case of double murder and the appellant confessed himself that he was also involved in murder of the sons of the informant. However he concedes that no recovery has been made at his instance. He further submits that the call details report of the mobile phones shows his tower location near the place of the occurrence during the relevant time.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties and also considering the lack of supportive material to show the involvement of the appellant in the double murder of two sons of the informant and further considering the period of custody of the petitioner along with submission of charge sheet, he directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-3-cum-Special Judge (SC/ST) Act, Nalanda at Biharsharif in



connection with Bind P.S. Case No. 14 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

(i) One of the bailors will be Mantu Kumar, younger brother of the appellant, who has sworn the affidavit in this case.

(ii) The appellant will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Arun Kumar Jha, J)

Rajnish/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	26.08.2022
Transmission Date	26.08.2022

