

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.937 of 2022

Arising Out of PS. Case No.-132 Year-2021 Thana- BIND District- Nalanda

DEEPAK KUMAR @ ABHISHEK KUMAR Son of Dayanand Prasad
Resident of Village- Kathrahi, P.S.- Bind, District- Nalanda.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Nitish Kumar S/o Surendra Rai Resident of Village- Dakshni Chak, P.S.-
Athamalgola, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Binod Kumar Sinha
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 04-08-2022

Heard learned counsel for the appellant and learned
APP for the State.

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

This is an appeal under Section 14(A)(2) of the
Scheduled Caste and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail vide
order dated 02.02.2022 passed by the learned Additional Session
Judge III-cum-Special Judge, SC/ST, Biharsharif, Nalanda in
connection with Bind P.S. Case No. 132 of 2021 registered for
the alleged offences under Sections 302, 307 and 394 of the



Indian Penal Code and Section 27 of the Arms Act as well as 3(i) (r) (s)/ 3(2) (v) SC/ST (Prevention of Atrocities) Act.

As per prosecution case, the informant and the deceased used to drive truck and on the fateful night, the deceased Ranju Paswan was shot dead by three miscreants and they took Rs. 12,000/- from the deceased. They also fired upon the informant when he tried to run away.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. He has not been named in the FIR and nothing incriminating has been recovered from person or possession. No TIP has been conducted in this case. CDR report of mobile number of appellant and co-accused person also falsifies the prosecution case. If the appellant and co-accused were present at the same place, there was no question of any talk on mobile phone with each other. Furthermore, there is no substantive material against this appellant to connect him with the alleged occurrence. Learned counsel further submits that in his deposition recorded before learned trial the informant did not identify the petitioner and has not named him in his deposition. Charge sheet has been submitted in this case and the appellant is in custody since 21.10.2021.



Learned APP for the State opposes the prayer for bail of the appellant.

Perused the records.

I have been informed that respondent no. 2 has been served and this fact reflects on the website under office notes, still none has appeared on behalf of the respondent no. 2.

Having regard to the submission made and considering the fact that there is distinct lack of cogent material on record and further considering the deposition recorded before learned trial court and period of custody of the petitioner, the appellant above named is 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 III-Cum-Special Judge SC/ST Act, Bihar Sharif, Nalanda in connection with Bind P.S. Case No. 132 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.



(iii) In case of absence for 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.

The impugned order is set aside and the appeal stands allowed.

(Arun Kumar Jha, J)

Gautam/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.08.2022
Transmission Date	09.08.2022

