

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.878 of 2022

Arising Out of PS. Case No.-108 Year-2021 Thana- DALSINGHSARAI District- Samastipur

Sunil Sahni Son of Rajendra Sahni Resident of Village - Maulvi Chak, P.s.-
Dalsinghsarai, Distt.- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Ghuran Paswan Son of Singheshwar Paswan Resident of Village-
Ballochak,P.S-Dalsinsarai,District-Samastipur

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 29-09-2022 Heard learned counsel for the appellant as well as
learned Special Public Prosecutor for the State.

Earlier, notice was issued to the newly added 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, Samastipur. Today, it has been informed that S.S.P, Samastipur 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 02.02.2022 passed by the learned Special Judge, Dalsinghsarai SC/ST Act, in connection with Session trial no. 1417 of 2021 arising out of P.S.Case No. 108 of 2021 instituted for the offence under Sections 363, 365 of the Indian Penal Code and cognizance has been taken under section 364, 302,120B, 379, 201 section 3(2)(v) SC/ST Act , whereby prayer for bail of the appellant has been rejected.

As per the prosecution case, it is alleged that the son of the informant used to ply Toto rickshaw. On 18.04.2021 at about 7.30 a.m, the appellant went along with the deceased in his Toto rickshaw. However, the deceased did not return till late night at 10.30 p.m, thereupon the informant called him on mobile however, the same was found switched off thereafter, the informant went to the house of the appellant, who told that deceased was gone to Bachwara on Toto rickshaw and he has not returned.

Learned counsel for the appellant submits that from the FIR, it is evident that the deceased was taken away by the appellant and thereafter his dead body was recovered, save and except the fact that the informant went along with the appellant



in the morning, there was no other allegation against the appellant in the FIR, however, it appears that later on two lines in the bottom of the FIR have been inserted at the dictate of the police that the informant has suspected the hands of the appellant in kidnapping of his son. He next submits that there is no close proximity of time in taking away of the son of the informant and the recovery of his dead body. He further submits that neither any motive has been assigned nor, there is any animosity prior to the alleged occurrence and in fact the deceased had died on a different place or by different manner but only on suspicion his name has been implicated in this case. He last submits that now the charges have already been framed, though the appellant is in custody since 20.04.2021.

On the other hand, learned counsel for the State opposed the bail application and submits that from the FIR, it is evident that the deceased was taken away by this appellant and thereafter, his dead body was recovered. The appellant has found involved in one another case.

Having regard to the submission made on behalf of the parties and considering the fact that the entire case is based upon suspicion and there is no other material suggesting the complicity of the appellant and apart from the fact, there is no



close proximity of time in taking away of the son of the informant and from the recovery of the dead body, and moreover, the appellant is in custody since 20.04.2021, let the above named appellant, be enlarged 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, Samastipur in connection with session trial no. 1417 of 2021 arising out of Dalsinghsarai P.S.Case No. 108 of 2021, subject 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 02.02.



2022 is hereby, set aside and the present appeal stands allowed.

(Harish Kumar, J)

N.K/-

U			
---	--	--	--

