

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.876 of 2022

Arising Out of PS. Case No.-350 Year-2021 Thana- MAIRWAN District- Siwan

Karan Kumar Yadav @ Karan Kumar, Son of Shivji Chaudhary @ Sheojee Yadav, Resident of Village- Harnathpur, Police Station- Mairwa, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanjay Gond, Son of Late Ramayan Gond, Resident of Village- Chupchupwa, Police Station- Mairwa, District- Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Tiwary, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, APP
For the Respondent No.2:	:	Mr. Ajay Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 08-09-2022 Learned counsel for the Appellant is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

 Heard Mr. Ajay Kumar Tiwary, learned counsel appearing on behalf of the appellant, Mr. Ajay Kumar Pandey learned counsel for the informant-respondent no.2 as well as learned Spl.PP for the State.

 The present appeal under Section 14(A) (2) of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, (hereinafter referred to as 'SC/ST Act') has been preferred against the order dated 14.02.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Siwan in



connection with Special case no. 37 of 2022, arising out of Mairwa P.S. case no. 350 of 2021, registered for the offences punishable under Sections 302, 201, 120(B) of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v) of the SC/ST Act whereby the prayer for grant of regular bail of the appellant has been rejected.

As per prosecution case, it is alleged that on 01.11.2021 at about 05:20 in the evening, the informant talked to his brother Dukhi Gond, who had coming to his house, however, he did not come till late night. Thereafter on 02.11.2021 at about 07.10, he received an information that some unknown criminals have killed his brother and on said information, he reached near Parasiya Khurd Canal, where he found the dead body of his brother.

Learned counsel for the appellant submits that the F.I.R. has been instituted against unknown miscreants and not even a suspicion has been raised against the appellant. He next submits that neither the informant nor there is any other witnesses, who are claiming to be an eye witness to the alleged occurrence. He further submits that during the course of investigation, the informant came to know that the deceased had seen along with the appellant and one Dhananjay Yadav, who



were going towards the Canal and thereafter only appellant and Dhananjay Yadav returned, but the deceased never returned from canal and due to which the informant in his further statement suspected the hands of the appellant in causing the death of the deceased. He next submits that the entire case is based upon suspicion and there is no cogent material suggesting the complicity of the appellant and, moreover, the appellant, having fair antecedent, is in custody since 05.11.2021 and the investigation of the crime is already completed earlier.

On the other hand, learned counsel for the informant-respondent no. 2 vehemently opposes the appeal and submits that specific allegation has been levelled against the appellant that he and his friend Dhananjay Yadav and deceased went towards the canal and thereafter the deceased never returned, which shows the complicity of the appellant.

Regard being had to the facts that the entire case rests upon the suspicion and there is no eyewitness to the alleged occurrence, apart from fair antecedent of the petitioner, couple with period of incarceration, let the appellant, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-



Special Judge, Siwan in connection with Special Case No.37 of 2022, arising out of Mairwa P.S. Case No. 350 of 2021, subject to the condition that one of the bailors will be the close relative of the appellant with further conditions which are as follows:-

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

(ii) He will remain physically 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 14.02.2022 is hereby set aside and the present appeal stands allowed.

(Harish Kumar, J)

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