

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1073 of 2022**

Arising Out of PS. Case No.-3 Year-2022 Thana- MOHIUDDIN NAGAR District-
Samastipur

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Viro Mahto @ Veer Bahadur Mahto Son Of Late Nageshwar Mahato Residnet
of Village - Raspur Patasia (Purab), P.S.- Mohiuddinagar, District -
Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Perna Anand

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 16-11-2022 Heard Ld. counsel for the appellant and Ld. Special

Public Prosecutor for the State.

This criminal appeal has been filed to enlarge the
appellant on bail, impugning the order dated 07.03.2022,
passed by the learned Special Judge Scheduled Caste/
Scheduled Tribes, Samastipur, arising out of Mohiuddinagar
P.S. Case No. 03 of 2022, whereby bail has been denied to
the appellant.

The prosecution case as emerges from the FIR is
that when the husband of the informant was returning after
watering the field, the appellant along with his associates
surrounded him and started abusing him by taking his caste



name and when the same was protested, all of them started assaulting him by means of lathi, danda and iron rod, resulting into his death and threw the dead body of the victim in a ditch.

The learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that learned special court has failed to appreciate that the allegation against the appellant is general and omnibus in nature and from perusal of the case diary, it appears that the informant is not an eye-witness to the alleged occurrence and she came to know about the occurrence from the accused through mobile while he was being attacked by the accused persons. It is further submitted that investigation in this case is complete and charge-sheet has already been submitted. It is further submitted that similarly situated co-accused persons have already been enlarged on bail by the coordinated Benches of this Court vide orders dated 13.10.2022, passed in Criminal Appeal (SJ) No. 2088 of 2022 and passed in Criminal Appeal (SJ) No. 1233 of 2022.



The appellant has been languishing in custody since 03.01.2022.

It is also stated in paragraph no. 2 of the appeal that the appellant has not moved earlier before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the appellant has no criminal antecedent.

Learned Special Public Prosecutor for the State and Ld. Counsel for the informant contest the prayer of the appellant for bail submitting that the alleged offence is serious in nature and allegation is corroborated by post-mortem report.

However, considering the aforesaid facts and circumstances, particularly in view of the fact that similarly situated co-accused persons have already been enlarged on bail by Co-ordinate Benches of this Court, the appeal is allowed, setting aside the impugned order, dated 07.03.2022, passed by the learned Special Judge Scheduled Caste/ Scheduled Tribes, Samastipur and directing the appellant to be released on bail on his furnishing bail bonds



in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Ld. Special Judge Scheduled Caste/ Scheduled Tribes, Samastipur, arising out of Mohiuddinagar P.S. Case No. 03 of 2022, on the following conditions:

(i) The appellant will make himself available for interrogation by a police officer/court as and when required.

(ii) The appellant will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The appellant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the appellant has any criminal antecedent, the learned court below shall cancel the bail bond of the appellant after hearing him and getting satisfied that the



appellant has concealed his criminal antecedent despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the appellant.

The appeal stands allowed accordingly.

The learned counsel for the appellant is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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