

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1576 of 2022

Arising Out of PS. Case No.-17 Year-2021 Thana- BARHARA KOTHI District- Purnia

RAKESH MAHTO Son of Anandi Mahto Resident of Village - Hanuman
nagar, P.S. Barhara (Raghu Bansh Nagar), District - Purnea.

... .. Appellant/s

Versus

1. The State of Bihar
2. Lutan Devi Wife of Late Mantu Rarm Resident of Village - Hanuman nagar
Ward No. 10, P.S. Barhara (Raghu Bansh Nagar), District - Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ram Prawesh Kumar, Advocate
For the Respondent/s : Ms. Usha Kumari 1, Spl.APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 23-08-2022 Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for **anticipatory bail** vide order dated 04.04.2022 in ABP No. 228. of 2022 passed by the learned 1st Additional Sessions Judge, Purnea in connection with Barhara P.S. Case No. 17 of 2021 giving rise to S.T. No. 266 of 2021 registered under Sections Sections 364, 302, 201, 120(B) and 34 of the Indian Penal Code and Section 3(2) (Va) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities



Act).

Learned counsel for the appellant submits that appellant is a person with clean antecedent and the informant alleges that her husband Mantu Ram went to his Basa to sleep there on 10.01.2021 at 8.30 PM and when he did not return in the morning then the informant along with children went to the Basa to search him but he was not found, it is next alleged that on 12.01.2021 the informant came to know from villagers that the dead body of her husband was lying under a paddy husk on the Eastern Bandh of Baruneshwar Sthan Canal and then the informant and her family members went there and identified the dead body of her husband, accordingly the informant alleged that named accused persons excluding, the appellant, had killed her husband on account of land dispute.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the present case, it is next submitted that appellant is not named in the FIR and even during the course of investigation when the matter was investigated by the police threadbare and charge-sheet came to be filed against the accused persons but the name of the appellant did not figure in the charge-sheet also, it is next submitted that thereafter the charges against the accused persons



who were charge-sheeted, were framed and the trial proceeded, it is further submitted that during the course of trial P.W.1 Rustam Devi, who is informant of this case, did not support the prosecution case and was declared hostile thereafter P.W.2 Mantu Kumar Ram, who is the cousin brother of the deceased also did not support the fact that he had put the signature on the fardbyan and he too was declared hostile, it is next submitted that from evidence of P.W.2 though he was declared hostile but a suspicion was raised against this appellant that he might have killed the deceased (Mantu Ram), the learned counsel next submits that P.W.3 Naresh Ram, who is own brother of the deceased Mantu Ram was also declared hostile by the prosecution case. The learned counsel next submits that though the aforesaid prosecution witnesses were declared hostile but they in their examination-in-chief had raised suspicion against this appellant of his participation in the occurrence based on which the learned trial court summoned the appellant to face trial under Section 319 of the Cr.P.C., the learned counsel next submits that since summons have been issued against the appellant for facing trial as such he apprehends that he may be arrested, it is next submitted that it absolutely does not stand to reason that when the matter was investigated threadbare by the



police but still the name of this appellant during the course of investigation did not figure at any stage then merely on basis of the statement of the prosecution witnesses that on the basis of suspicion the appellant has been summoned to face trial, when as aforesaid they have been declared hostile, the learned counsel next submits that the bar of Section 18 of the SC/ST Act would not apply in the facts of the case as prima facie the appellant was not named in the FIR during the course of investigation also his name did not figure and only on basis of suspicion as aforesaid he came to be implicated in the present case, the learned counsel next submits that though charge-sheet came to be submitted against some of the accused persons but the matter is still under investigation with respect to other accused persons who are named in the FIR, the learned counsel for the appellant next submits that the appellant would co-operate in the trial.

Learned Spl.P.P. for the State opposes the prayer for anticipatory bail of the appellant.

Considering the submissions made by the learned counsel for the appellant, the order dated 04.04.2022 in ABP No. 228 of 2022 passed by the learned 1st Additional Sessions Judge, Purnea in connection with Barhara P.S. Case No. 17 of 2021 giving rise to S.T. No. 266 of 2021 is hereby set aside and



the appellant above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Barhara P.S. Case No. 17 of 2021 giving rise to S.T. No. 266 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

In the event, if the learned trial court comes to a conclusion that the appellant after obtaining anticipatory bail is trying to delay the trial in any manner, the learned trial court shall forthwith cancelled the bail bond after recording reasons.

(Satyavrat Verma, J)

Shivam/-

U		T	
---	--	---	--

