

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1728 of 2022**

Arising Out of PS. Case No.-196 Year-2020 Thana- KHANPURA District- Samastipur

Makhan Sahani, S/o Late Bathu Sahani Resident of Village- Garipur
Ghat,P.S.- Khanpur, Dist- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Raja Ram Das S/o Late Uchit Das R/o Village- Haripur Ghat, P.S.- Khanpur,
District- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mrs.Shruti Sinha, Advocate Mr. Ebrahim Kabir, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 22-09-2022

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 Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail vide
order dated 10.01.2022 passed by the learned Special Judge
SC/ST (POA) Act, Samastipur in connection with TR. No. 1419
of 2021 arising out of Khanpur P.S. Case No. 196 of 2021



registered for the alleged offences under Sections 302 and 34 of the Indian Penal Code and Sections 3(1)(r) (s), 3(2)(va) of Scheduled Castes and Scheduled Tribes Act.

As per prosecution case, the father of the informant was abused and assaulted by this appellant and other co-accused persons with slaps and fists. Further, allegation against the appellant is that he along with others put down the father of the informant and strangled him and the co-accused squeezed the testicles of the father of the informant.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. It is apparent from the F.I.R. that the informant was not an eye witness otherwise he would have intervened if his father was being killed or his father was being assaulted and killed by the appellant and others. The other co-accused persons named by the informant were not sent up for facing trial as the police found the case not true against them. Learned counsel further submits that the post mortem report shows injuries on the anterior of the neck and it does not show any cause of death as opinion has been reserved and viscera has been preserved. Charge sheet has been submitted in this case and the appellant is in custody since 22.10.2020. The appellant is having no criminal



history.

Learned Special Public Prosecutor for the State opposes the prayer for bail made on behalf of the appellant submitting that the inquest report as well as the post mortem report shows injuries on testicles as well as neck. In paragraph 12, 13 and 26 of the case diary have also supported the prosecution case.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and further considering the nature of allegation against the appellant which does not show any premeditation and intention and also considering period of custody of the appellant along with submission of charge sheet against him, 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 Special Judge SC/ST (POA) Act, Samastipur in connection with TR No. 1419 of 2021 arising out of Khanpur P.S. Case No. 196 of 2020 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 on 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.

Accordingly, the impugned order is set aside and the appeal stands allowed.

(Arun Kumar Jha, J)

Gautam/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.09.2022
Transmission Date	26.09.2022

