

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2088 of 2022

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

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Nago Mahto S/O Late Ramdeo Mahto Resident of Village- Raspur, Patasiya
East, P.S.- Mohiuddin Nagar, District- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sakali Devi Wife of Dinesh Paswan Resident of village-Raspur ward no.
07,P.S-M.Nagar,District-Samastipur

... .. Respondent/s

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Appearance :

For the Appellant/s :	Mr. Ashok Kumar Jha, Advocate
For the Respondent no. 2	Mr. Lakshmindra Kumar Yadav, Advocate
For the State :	Mr. Sadanand Paswan, SPP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 13-10-2022 Heard Mr. Ashok Kumar Jha, learned counsel for

the appellant and Mr. Lakshmindra Kumar Yadav, learned

counsel for the respondent no. 2 as well as learned SPP for the

State.

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 11.05.2022 passed by the
learned Special Judge SC/ST Samastipur in connection with
Mohiuddin Nagar P.S.Case No. 03 of 2022 instituted for the
offence under Sections 147, 148, 149, 302, 201, 504 of the
Indian Penal Code and section 3(2) (v) of the SC/ST Act



whereby prayer for bail of the appellant has been rejected.

The prosecution case is based on a written report filed by the informant alleging therein that her husband was coming after watering the field. In the meantime, all the FIR named accused persons including the appellant surrounded him and started abusing 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 which resulted into his death. It is further alleged that thereafter, all the accused persons thrown the dead body of the husband of the informant in a ditch.

Learned counsel appearing on behalf of the appellant submits that from the tenor of the FIR, it appears that the informant is imposing herself to be an eye witness to the alleged occurrence but surprisingly the occurrence took place on 03.01.2022 at about 7.30 pm but the present FIR has been instituted on 04.01.2022 at about 1.15 pm. He next submits that from the FIR, it is also evident that the dead body was found from a ditch and after post mortem it has been found that four ante mortem injuries have been found on the body of the deceased, out of which two were found to be abrasion. He next submits that there is omnibus allegation based on suspicion levelled against all the accused persons including the appellant



and neither there is eye witness to the alleged occurrence nor any material suggesting the complicity of the appellant in the present crime. He further submits that no motive has been assigned of causing the death of the husband of the informant, apart from the fact that the appellant having fair antecedent is in custody since 12.04.2022.

On the other hand, learned counsel for the informant opposed the prayer for bail of the appellant and submits that during the course of investigation ample material have come against the appellant that on account of prior animosity, the appellant along with others have killed the husband of the informant. He also submits that in the supervision note of the Deputy Superintendent of Police, who was supervising the case, complicity of the appellant has also been found.

The learned counsel for the State also opposed the prayer for bail of the appellant.

Regard being had to the submissions made on behalf of the parties and considering the materials available on record specially the fact that the FIR has been instituted after delay of almost one day and save and except the suspicion, there is no eye witness to the alleged occurrence coupled with the fair antecedent of the appellant and the period of incarceration, let



the above named appellant, be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST Samastipur in connection with Mohiuddin P.S.Case No. 03 of 2022, 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 11.05.2022 is hereby, set aside and the present appeal stands allowed.

(Harish Kumar, J)

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