

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2125 of 2022**

Arising Out of PS. Case No.-173 Year-2022 Thana- SIWAN MUFFASIL District- Siwan

Ganesh Chaudhary, S/o Gaya Chaudhary Resident of Village- Chhotpur, P.S.-
Siwan Mufassil, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. Brajesh Kumar Ram S/o Late Kanchan Ram Resident of Vill- Sarawe
Harijan Toli, P.S.- Siwan Mufassil, District- Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Gajendra Kumar Singh, Advocate
For the State	:	Mr.Sadanand Paswan, Spl.P.P.
For the respondent no.2	:	Mr. Ajay Kumar Singh No.1, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 28-07-2022

Heard learned counsel for the appellant, learned Spl.

P.P. for the State and learned counsel for the respondent no.2.

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 by
order dated 26.05.2022 passed by the learned 1st Additional
Sessions Judge-cum-Special Judge, Siwan in Siwan Muffasil
P.S. Case No.173 of 2022, registered under Sections 328, 302/34



of the Indian Penal Code and Section 3 (2) (va) of the SC/ST Act.

As per the prosecution case, the father of the informant went to participate in a funeral for beating drums and after returning from there, he fell ill and died during treatment in the hospital. The informant alleged that the appellant and other co-accused persons gave some homeopathic medicine Mercosol-30 to the father of the informant and another person Shivnath Bansfore and both of them consumed half portion each of it and thereafter, they fell ill and died. The informant showed his apprehension that the appellant and other co-accused persons deliberately gave excess quantity of medicines to his father and another deceased causing their death.

Learned counsel for the appellant submits that from the FIR itself, it is apparent that no offence is made out against the appellant. There is general and omnibus allegation that three persons brought the homeopathic medicine and they consumed one bottle themselves and gave one bottle to two deceased persons. It is still not clear how the father of the informant died as no post mortem examination was conducted. Moreover, after four days of the alleged occurrence, this FIR has been registered for which there is no explanation. Learned counsel further



pointed out that portion of the impugned order wherein it has been stated that the informant has filed an application on oath that his father and Shivrath Bansfore died a natural death and he filed this case at the instigation of some other person. Further, there is no eye witness to the allegation made by the informant and none has seen the appellant giving the homeopathic medicine to the deceased persons. In the FIR, it is also alleged that the appellant and others also consumed the same medicines, so it could not be said that the said medicines caused the death of the father of the informant. The appellant is in custody since 25.03.2022.

Learned Special PP as well as learned counsel for the informant opposes the prayer for bail submitting that there is specific allegation against the appellant, who is named in the FIR.

Having regard to the submissions made here-in-above and considering the fact that there is general and vague allegation without any cogent material on record against the appellant and further considering his period of custody, let the appellant, above named, be released on bail, on furnishing bail bonds of Rs. 20,000/- (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
Siwan Mufassil P.S. Case No. 173 of 2022, subject to 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 is allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	29.07.2022
Transmission Date	29.07.2022

