

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2247 of 2022

Arising Out of PS. Case No.-175 Year-2021 Thana- PAKRIDAYAL District- East Champaran

Nageshwar Pandit Son Of Late Ramnaresh Pandit R/O- Vill-Dulma, P.S.-
Madhuban Dist.- East Champaran

... .. Appellant/s

Versus

1. The State Of Bihar
2. Shail Kumari Devi wife of Yogendra Baitha Resident of village- Dulma
Tiwari Tola ward no.4 P.S. Madhuban, District- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dhannjay Kumar No 2, Adv.

For the Respondent/s : Mr. A.G. Special P.P.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 03-11-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard Mr. Dhannjay kumar, learned counsel for the
appellant, learned Special P.P. for the State and learned Mr.
Shakti Suman Kumar, for the Respondent No.2.

The present appeal under Section 14(A) (2) of the
Schedule Caste/Scheduled Tribe, Prevention of Atrocities Act,
(hereinafter referred to 'SC/ST Act') has been preferred against
the order dated 03.06.2022 passed by the learned Special Judge
(SC/ST), East Champaran at Motihari in connection with
Pakaridayal P.S. Case No. 175 of 2021 lodged under Sections
302, 120/34 of the I.P.C. read with Sections 3(1) (r) (s) 3(2) (D)

SC/ST Act.

The prosecution case has been filed by the informant that on 12.08.2021 at around 8:45 A.M, her son was called by the appellant to collect the fodder from the field, on which her son went with the appellant but after one hour, the informant received information from the children of the village that some scuffle took place with her son, informant rushed to the place of occurrence but found that her son was killed. The present case has been filed against 5 named accused persons.

Learned counsel for the appellant submits that appellant is innocent and has committed no offence. He submits that there is no eye witness of the occurrence, his name has figured in this case only and only by virtue of suspicion. He submits that the most crucial point of this case is that the occurrence took place on 12.08.2021 whereas the present F.I.R. has been lodged on 14.08.2021 i.e. after lapse of about 2 days. Learned counsel for the appellant further submits that he is a man of clean antecedent but he has inimical relation with the *Mukhiya* and the informant is used to work under the influence of *Mukhiya* and therefore, in his influence and under pre-planned after lapse of 2 days, his name was implanted in this case. Learned counsel for the appellant submits that he is in custody since 28.02.2022. Learned counsel for the appellant

further submits that other co-accused persons of this case have been granted bail by the Co-ordinate Bench of this Court vide order dated 22.09.2022 and 13.10.2022 passed in Cr. APP (SJ) No. 1612 of 2022 and Cr. APP (SJ) No. 1581 of 2022 respectively.

Learned counsel for the respondent No.2 vehemently opposes the prayer for bail and submits that it is a appellant who called the son of the informant and on his call, he went outside the house and after one hour, his dead body was recovered.

Learned Special P.P. for the State also opposes the prayer for bail and submits that appellant's name is there in the F.I.R. but upon the query of the Court that the delay in filing the F.I.R. after 2 days has not been explained and he has not answered.

In the present facts and circumstances of this case and the submissions made above, let the appellant above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of Special Judge SC/ST Act East Champaran At Motihari in connection with Pakaridayal P.S. Case No. 175 of 2021, with other following conditions:

A. The appellant shall support in trial and shall appear physically before the lower court on each and every date fixed,

in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file affidavit before the court about his relationship with the appellant.

C. The appellant shall file an affidavit at the time of furnishing of bail bond that he shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of his present bail bond.

Accordingly, the impugned order dated 03.06.2022 passed by Special ST/ST Court, East Champaran at Motihari in Pakaridayal P.S. Case No. 175 of 2021 is hereby set aside and the present appeal is allowed.

With this observation, the appeal stands allowed.

(Dr. Anshuman, J.)

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