

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2522 of 2022**

Arising Out of PS. Case No.-14 Year-2022 Thana- THAWE District- Gopalganj

Harun Miyan S/O Late Hasnain Miyan Resident of village- Bari Eshar, P.S.-
Hathua, District- Gopalganj.

... .. Appellant/s

Versus

1. The State of Bihar
2. Chand Jyoti Devi W/O Bhukhal Musahar Resident of village- Math Gautam,
P.S.- Thawe District- Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Mukesh Kumar Singh, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan, Spl.PP
For the Informant	:	Mr.Dharamveer, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 22-12-2022

Heard learned counsel for the appellant, learned
counsel for the State and learned counsel for the informant.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

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 17.05.2022 passed by learned Additional Sessions
Judge-III-cum-Special Judge (SC/ST), Gopalganj in connection
with Thawe P.S. Case No. 14 of 2022 registered for the alleged
offences under Sections 302 and 34 of the Indian Penal Code,
Section 27 of the Arms Act and Sections 3 (i)(r)(s) and 3 (2)(va)

of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution case, the elder brother of the husband of the informant won the election of *mukhiya* and allegation against the FIR named co-accused persons is that they had been giving threat to the brother-in-law of the informant that they would kill him and would not allow him to take oath of *mukhiya*. The informant has further alleged that the FIR named six co-accused persons assaulted her brother-in-law and gave him knife blow and when he tried to escape, he was fired upon by co-accused Ajay Singh and he died on the spot. The name of the appellant transpired during investigation as one of the accused persons also involved in the murder of the brother-in-law of the informant.

Learned counsel for the appellant submits that the appellant is not named in the FIR and has been falsely implicated in this case without any substantive material against him. The appellant has been named in this case after he was arrested in Thawey P.S. Case No. 39 of 2022. Though, the petitioner has been made accused on the basis of confessional statement of co-accused, but even in the confessional statement of co-accused, nothing has come up against the appellant showing

involvement in the occurrence of the death of the brother-in-law of the informant. The appellant is in custody since 25.04.2022 and charge-sheet has been submitted.

Learned counsel appearing on behalf of the informant as well as learned Special PP oppose the submission made on behalf of the appellant. Learned counsel for the informant submits that it has come up during investigation that the assailants of the brother-in-law of the informant took shelter in the house of this appellant after killing him.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties and considering the lack of substantive material against the appellant to show his involvement in the alleged offence and further considering the 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 Additional Sessions Judge-III-cum-Special Judge (SC/ST), Gopalganj in connection with Thawey P.S. Case No. 14 of 2022, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and 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)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.12.2022
Transmission Date	23.12.2022