

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2891 of 2022

Arising Out of PS. Case No.-164 Year-2022 Thana- DESARI District- Vaishali

Lalita Devi @ Radha Devi W/o Ramu Sahni Resident of Village - Chainpur
Nanhakar, P.s.- Desari, Distt.- Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mukesh Paswan Son of Madan Paswan Resident of Village - Chainpur
Nanhakar, P.s.- Desari, Distt.- Vaishali.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. PP
For the Respondent	:	Mr. Anirudh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 08-12-2022

Heard learned counsel for the appellant and learned
counsel for the State as well as learned counsel for the
informant.

Let the defect (s), if any, 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 01.08.2022 passed by learned Special Judge-
(SC/ST) Act, Vaishali at Hajipur in connection with Desari
(Chandpura O.P.) P.S. Case No. 164 of 2022 registered for the
alleged offences under Sections 302/34 and 201 of the Indian



Penal Code and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the informant alleged that the petitioner and other co-accused persons had been threatening his brother with life and one of them called him out in the fateful night and thereafter, the brother of the informant did not return in the night and his dead-body was recovered from the field of one Ramesh Rai. The informant named the appellant and other co-accused persons for murder of his brother and further alleged that his brother was strangled to death and his dead-body was thrown in a maize field. The occurrence took place in the background of the fact that the deceased brother of the informant used to talk with the daughter of the present appellant.

Learned counsel for the appellant submits that from the FIR it is apparent that the informant is not an eye-witness and he raised a vague suspicion about the involvement of the appellant. The allegation of affair between the deceased and the daughter of the appellant is out and out false and concocted. The daughter of the appellant is only twelve and a half years old. There is no eye-witness alleged occurrence. The police has forcibly recorded the confessional statements of co-accused



persons which are contradictory on several points. The appellant has got no concern with co-accused Magra Sahni who allegedly called out the deceased from his house. Learned counsel further submits that though the written report was given to the police at 14:30 hours on 17.04.2022, however, the investigation was started much earlier and inquest report was prepared on 17.04.2022 at 08:15 hours and seizure list was prepared on 17.04.2022 at 08:25. So, it is evident that the present written report has been prepared after due deliberation for falsely implicating the appellant and others. If the appellant and other co-accused persons would have threatened the deceased brother of the informant it is not believable that he would have gone out with co-accused Mangra Sahni on his call. Learned counsel for the appellant further submits that on 17.04.2022, i.e., on the date of lodging of the FIR, the appellant was arrested from her house and was sent to judicial custody. The appellant is a lady and she is in custody since 18.04.2022 and charge-sheet has been submitted. She has got clean antecedent.

Learned counsel appearing on behalf of the informant/ respondent no. 2 vehemently opposes the submission made on behalf of the appellant. Learned counsel for the informant/ respondent no. 2 submits that the appellant



and other co-accused persons are named in the FIR and it is has come on record that the appellant entered into a conspiracy with other co-accused persons and committed the murder of the brother of the informant.

Perused the records.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties and considering the fact that the petitioner is a lady and allegations against her are not corroborated by material collected during investigation by the police as it appears from record and further considering the clean antecedent of the appellant along with the period of custody of the appellant and submission of charge sheet, she 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 Judge (SC/ST), Vaishali at Hajipur in connection with Desari (Chandpura O.P.) P.S. Case No. 164 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)

himanshu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2022
Transmission Date	13.12.2022

