

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4382 of 2021

Arising Out of PS. Case No.-16 Year-2018 Thana- MUSRIGHRARI District- Samastipur

Nunnu Choudhary @ Aditya Kumar Shandilya, aged about 44 years (Male)
Son of Late Shiv Nath Choudhary Resident of Village- Rupauli, P.S.-
Musrigharari, District- Samastipur

... .. Appellant

Versus

1. The State of Bihar
2. Nagendra Ram, son of Bahoran Ram resident of Village-Tole
Gohda,Rupouli Bujurg,P.S-Murigharai,District- Samastipur

... .. Respondents

Appearance :

For the Appellant	:	Mr. Ashok Kumar Choudhary Sr. Adv. Mr. Akshansh Ankit, Adv.
For the Respondents	:	Ms. Usha Kumari 1 Spl PP
For the informant	:	Mr. Bijay Bhushan Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

9 23-03-2022 Heard learned counsel for the appellant, informant
and the learned Special PP for the State.

The appellant has preferred the present appeal under Sections 14A(1) and 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity, SC/ST Act) against the refusal of his prayer for regular bail vide order dated 08.09.2021 passed by Additional Sessions Judge I -cum- Special Judge, SC/ST Act, Samastipur in a case registered under Sections 302 and 201/34 of Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2) (va) of SC/ST Act, in connection with Musrigharari Police Station (for brevity, PS) Case No 16 of



2018.

Earlier, the appellant's prayer for bail was rejected by this Court on 18-03-2021 vide Annexure-1 to the petition.

The allegation is that the informant's brother was taken away by one *Shambhu Choudhary* appellant's brother on the pretext of settling, some monetary dues. One day later, dead body of the informant's brother has been found hanging from a tree which is alleged to be in the orchard of the appellant.

The learned senior counsel for the appellant has submitted that the orchard does not belong to the appellant. It is a case of false implication and the informant is neither an eye witness to the occurrence nor was he present at the place. There is delay in lodging the First Information Report and the entire prosecution case is rendered unsustainable. The case has been lodged merely on suspicion.

Learned Special P. P. assisted by learned counsel for the informant have opposed the prayer for bail. They have submitted that the dead body was recovered hanging from a tree which is alleged to be in the orchard of the appellant. The unnatural death occurring in the appellant's orchard is an indication of his complicity in the offence.

Earlier, this Court, vide order dated 16-02-2022, had



called for a report from the learned Trial Court regarding the current stage of trial.

The report 24.02.2022 states that charge was framed on 07-04-2021. Thereafter, in the last nearly one year, no prosecution witness has been produced on behalf of the prosecution. The aforesaid facts, viewed with the fact in the background that the appellant has no criminal antecedents and has remained in custody since 13-09-2020, this Court is inclined to allow the prayer for bail.

In my opinion, a case for grant of regular bail is made out. The impugned order dated 08.09.2021 requires interference by this Court, which is, accordingly, set aside.

Considering the rival submissions, this appeal is allowed. The impugned order dated 08-09-2021 passed by learned Additional Sessions Judge I -cum-Special Judge, SC/ST Act, Samastipur, in connection with Musrigharari PS Case No 16 of 2018 is set aside.

Let the appellant, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge I -cum-Special Judge, SC/ST Act, Samastipur in Musrigharari PS Case No 16 of 2018, subject



to the following conditions:

(1) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(2) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bone will be liable to be cancelled.

(Madhuresh Prasad, J)

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