

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.894 of 2021**

Arising Out of PS. Case No.-119 Year-2020 Thana- KHANPURA District- Samastipur

Sudin Sahni S/o L.T. Thakkan Sahni, R/o village- Sivaisingpur, Khanpur,
P.S.- Khanpur, Distt.- Samastipur, Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Sumitra Devi, wife of Ram Chandra Ram, R/o Village- Sivaisingpur, Ward No.-03, P.S- Khanpur, District- Samastipur, Mobile No.-9817902490

... .. Respondent/s

Appearance :

For the Appellant/s	:	Dr. Bidhu Ranjan, Advocate
For the Respondent/s	:	Mrs. Usha Kumari, Spl. P.P.
For Respondent No.2	:	Mr. Ram Narayan Mahto, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 30-06-2022 Learned counsel for the appellant is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Dr. Bidhu Ranjan, learned counsel appearing on behalf of the appellant, Mr. Ram Naryan Mahto, learned counsel for respondent no.2 and learned Spl. PP for the State.

The present appeal under Sections 14(A) (2) of the Scheduled Castes/Schedule Tribes (Prevention of Atrocities) Act, (hereinafter referred to as the 'ST/SC Act') has been preferred against the order dated 24.09.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge SC/St Act, Samastipur in connection with Khanpur P.S. case no. 119 of 2020 registered for the offences punishable under Sections



364/34 of the Indian Penal Code and Sections 3(1)(r)(s)/3 (2) (va) of the SC/ST Act whereby and whereunder the prayer for grant of regular bail of the appellant has been rejected. Later on Section 302 of the Indian Penal Code was added.

As per prosecution case, it is alleged that on 28.07.2020, the appellant along with all his family members and two unknown persons came to the house of the informant and persuaded her husband to purchase a boat, as there was a chance of flood. On persuasion of the appellant, the husband of the informant went along with him after taking Rs.19,000/- cash and mobile. It is further alleged that at 10.00 P.M. the accused persons came and put the boat near the house, but the husband of the informant did not return.

Learned counsel for the appellant submits that there is no eye witness to the alleged occurrence, except the fact that the appellant along with his other family members had come to the house of the informant and thereafter all of them went to purchase the boat. It is further submitted that though there is allegation that the husband of the informant was kidnapped and killed, however, from the post-mortem report it appears that the death of the deceased had occurred on account of asphyxia due to drowning and moreover no external or internal injury has



been found over the body of the deceased. It is also submitted that during the course of investigation it has come that this occurrence has committed by the appellant and his family members, as there was old enmity, but from the F.I.R. the story appears to be absurd, as it is not the normal conduct of a person to go with the persons with whom there was enmity. It is lastly submitted that this appellant is in custody since 29.07.2020 having fair antecedent and so far investigation of the crime is concerned, the same has already been concluded much earlier.

On the other hand, leaned counsel appearing on behalf of respondent no.2 vehemently opposes the bail application and submits that there is specific allegation against the appellant that he took away the deceased and thereafter his dead body has been found. Learned counsel has also drawn the attention of this Court towards the inquest report, which shows that some injuries have been found over the body of the deceased.

Learned Special Public Prosecutor appearing on behalf of the State also opposes the prayer for bail and submits that the impugned order has been passed on the basis of the materials available on record.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that except the



allegation that in the morning the deceased was taken away by the appellant and his family members, there is no material available on record which, prima facie, suggests the complicity of the appellant and moreover this appellant is in custody since 29.07.2020 having fair antecedent inasmuch as the post-mortem report also suggests that there is no external or internal injury over the body of the deceased, this Court finds substance in the submission of the learned counsel for the appellant, let the appellant, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, Samastipur in connection with Khanpur P.S. case no. 119 of 2020, subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

Accordingly the impugned order dated 24.09.2020 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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