

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4585 of 2021**

Arising Out of PS. Case No.-266 Year-2021 Thana- KOILWAR District- Bhojpur

Kamlesh Yadav, Son of Upendra Ray, R/O Vill.- Barka Chanda, P.S.- Koilwar,
Dist.- Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Pushpa Devi, Wife of Late Santosh Paswan @ Panchi Paswan, R/O Vill.-
Chotka Chanda, P.S.- Koilwar, Dist.- Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Manoj Kumar, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.P.P.
For the O.P. No.2	:	Mr. Manoj Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 21-07-2022

Vide orders dated 12.05.2022 and 07.07.2022, the Viscera Report of the deceased was called for and the Director Forensic Science Laboratory, Patna was directed to take immediate steps for preparation of Viscera Report and further directed to hand over it to the Superintendent of Police, Bhojpur for its onward transmission to this Court. However, from the office report, it appears that the said report has not been made available to this Court till date. It seems that the prosecution is not interested in providing the report to this Court, though quite a long period has elapsed.

In the aforesaid circumstances, I think that no useful purpose will be served in keeping this case pending awaiting



the receipt of viscera report. So the matter is taken up for hearing.

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 from the date of resumption of physical filing and physical removal of defect.

This is an appeal under Sections 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 05.10.2021 passed by the learned Additional District and Sessions Judge-1st-cum-Special Judge, Bhojpur at Ara in connection with Koilwar P.S. Case No. 266 of 2021, registered under Sections 302 and 34 of the Indian Penal Code and Sections 3 (i) (r) (s), 3(2)(v) of SC/ST Act.

The prosecution case is that the appellant and other co-accused persons had been pressurizing her husband to deliver illicit liquor and he was assaulted by them. She further alleged that the appellant and accused persons committed the murder of her husband.

Learned counsel for the appellant has submitted that the appellant is innocent and has been falsely implicated in



this case. There is only general and omnibus allegations without any specific details against the appellant. The appellant and other co-accused persons have been made accused only on the basis of suspicion of the informant. There is no eye witness to the occurrence and no one saw the appellant with the deceased on the date of occurrence or day before. Learned counsel further submits that the deceased died due to over consumption of liquor. The charge sheet has been submitted in this case and the appellant is in custody since 05.07.2021. Learned counsel further submits that moreover, no case under the provisions of SC/ST Act is made out against the petitioner as there is no allegation on this count in the whole FIR.

Learned Special PP as well as learned counsel appearing on behalf of the informant opposes the prayer for bail submitting that the petitioner supplied the liquor to the deceased which caused his death.

Perused the records.

From perusal of the impugned rejection order, it appears that witnesses have stated about the deceased himself going to purchase the liquor from the petitioner along with some other persons and he consumed the liquor with them.



However, despite opportunity, the prosecution has failed to make available the viscera report to establish the cause of death.

Considering the vague and non-specific nature of allegation against the petitioner and further considering his period of custody , let the appellant, above named, be released on bail, on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-1st-cum-Special Judge, SC/ST Act, Bhojpur at Ara in connection with Koilwar P.S. Case No. 266 of 2021, subject to the following conditions:

- (i) The bail bond of the appellant will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the appellant.
- (iii) The appellant will remain present on each and every date fixed by the court below.
- (iv) In case of absence for 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)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	25.07.2022
Transmission Date	25.07.2022

