

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4802 of 2021**

Arising Out of PS. Case No.-401 Year-2020 Thana- BIRAUL District- Darbhanga

NARESH MANJHI @ BAUKA @ BAUNA Son of Late Shankar Manjhi
R/V- Bairampur, P.S.- Biraul, District - Darbhanga

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ajay Kumar, Advocate
For the Respondent/s	:	Mr.Binay Krishna, Spl.P.P. Mr.Arun Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

2 05-05-2022 Heard learned counsel for the appellant, learned counsel for the respondent no.2 and learned Special Public Prosecutor for the State.

Learned counsel for the appellant undertakes to remove the defects within four weeks of resumption of normal court proceedings. In the eventuality of non-removal of defects within stipulated period, the office will place the matter before the Bench.

The appellant, in the present appeal, is seeking setting aside the order dated 02.03.2021 passed by learned Additional Sessions Judge - 1st – cum – Special Judge, SC/ST (POA) Act, Darbhanga, passed in connection with SC/ST G.R. No. 215/2020 arising out of Biraul P.S. Case No. 401/2020



registered for the offence under Sections 302, 201/34 of the Indian Penal Code and Sections 3(1)(r)(s), 2(va), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. He is in custody since 09.12.2020 having no criminal antecedent.

As per the prosecution story, the husband of the informant had gone in the previous evening to one Sunil Rai and the appellant asking them to pay his wages for the cutting of bamboos and other works. It is alleged that both of them had threatened the husband of the informant. It is alleged that at about 7:00 P.M., the appellant took away the husband of the informant to his toddy shop for giving him toddy for consumption. The informant claims that she also went behind her husband and found that the appellant was pulling down the husband of the informant and was assaulting. At this stage, it is stated that while the appellant was taking her husband by pulling him, in the meanwhile Sunil Rai came there who was sitting near the 'chour' and started tying legs and hands of the husband of the informant which was objected to but it is alleged that the accused persons pushed her and asked her to flee away. The informant alleges that she got frightened by this and raised hulla whereupon the co-villagers and informant started searching the



husband of the informant and all the co-villagers caught hold of the appellant and asked him about the whereabouts of the husband of the informant, to which, he disclosed that he and Sunil Rai had killed the husband of the informant and his dead body was thrown in the 'Chour'. Informant says that the dead body was not found after search, police was informed and then the dead body was found from the Dubariya Chour. The hands and legs of the husband of the informant were found tied.

Learned counsel for the appellant submits that the appellant is innocent and has committed no offence. No occurrence, in the manner as alleged, has ever taken place and the appellant has been falsely implicated in this case. Learned counsel submits that in the post-mortem report no ante-mortem injuries have been found on the hands and legs and it is not possible that if the hands and legs were tied during the assault then no ante-mortem injury will be found. There is specific allegation against the co-accused Sunil Rai to have tied the ropes on the hands and legs of the informant. There is no eye-witness to the alleged occurrence. It is further submitted that no offence under the SC/ST Act is made out against the appellant as he himself is a member of the SC/ST caste. Similarly situated co-accused Sunil Rai has been enlarged on bail by a co-ordinate



Bench of this Court vide order dated 14.09.2021 passed in Cr. Appeal (SJ) No.3070/2021.

Mr. Binay Krishna, learned Spl.P.P. for the State as well as learned counsel for the informant have opposed the prayer for regular bail of the appellant. It is submitted that in course of investigation although no co-villager has come as an eye witness to the alleged occurrence but the informant has named this appellant also. On the query made by this court as to whether any ante-mortem injury has been found on the hands and legs of the deceased, learned Spl.P.P. has informed this court that no such ante-mortem injuries have been noticed in the medical report. The cause of death is said to be Asphyxia as a result of drowning in water. Learned Spl.P.P. has further informed that on legs and hands even no post-mortem injuries have been noticed.

Considering the facts and circumstances of the case, the allegation of tying the hands and legs of the deceased by ropes not getting substantiated from the medical report as no ante-mortem injury was found on the body of the deceased and there is no independent eye witness to the alleged occurrence, the recovery of body has been made on the subsequent date and the co-villagers have caught hold of the appellant are some of the circumstances which have persuaded this court to set-aside the



impugned order and directs release of the appellant above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 1st cum Special Judge, SC/ST Act, Darbhanga in connection with Biraul P.S. Case No. 401/2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Anjani Kumar Sharan, J)

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