

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.103 of 2022

Arising Out of PS. Case No.-416 Year-2021 Thana- KATIHAR NAGAR District- Katihar

BANTI KUMAR PASI Son of Late Dipak Lal Pasi Resident of Village -
Driver Tola, P.S.- Katihar (T), Distt.- Katihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Chhotu Paswan Son of Late Nawal Kishor Paswan Resident of Village -
Driver Tola, P.s.- Katihar Town, Dist.- Katihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjeev Kumar Singh, Advocate.

For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

For the Opposite Party No.2 : Mr. Dharmendra Kumar Paswan, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

5 18-08-2022 Learned counsel for the Appellant is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Sanjeev Kumar Singh, learned counsel for
the Appellant, Mr. Dharmendra Kumar Paswan, learned counsel
for the opposite party no. 2/informant as well as learned Special
Public Prosecutor for the State.

This is an appeal under Section 14 A (2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST
Act”) against the refusal of prayer for bail vide order dated
20.09.2021 passed by the learned Additional District Judge-1st



-cum-Special Judge, Katihar in connection with Katihar Town P. S. Case No. 416 of 2021 registered for the offences punishable under Sections 302 and 120(B) read with 34 of the Indian Penal Code and Sections 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

As per the prosecution case, it is alleged that F.I.R. named accused persons assaulted the brother of the opposite party no. 2, who later on, died. It is further alleged that subsequently the name of the appellant came up in the confessional statement of co-accused persons.

Learned counsel appearing on behalf of the Appellant submitted that from the tenor of the F.I.R., it would manifest that there would not be any application of SC/ST Act as the appellant belongs to the member of Scheduled Cast. It is next submitted that the appellant is not named in the F.I.R. and his name has transpired on the confessional statement of co-accused and save and except the confessional statement, there is no material against this petitioner. It is further submitted that other co-accused persons having identical allegation have already been granted bail by different co-ordinate Benches of this Hon'ble Court in Cr. Appeal (SJ) No. 481 of 2022 and Cr. Appeal (SJ) No. 1646 of 2022 and other analogous cases vide



order dated 11.08.2022. It is lastly submitted that the appellant is in custody since 02.08.2021, having fair antecedent.

On the other hand, learned counsel for the opposite party no. 2 vehemently opposes the present appeal and submits that out of 13 charge sheeted witnesses, 12 witnesses have already been examined and complicity of the appellant has transpired during the course of investigation.

Learned Special Public Prosecutor for the State also opposes the present appeal.

Having considered the submissions made on behalf of the parties and taking into account the fact that the appellant is not named in the F.I.R. and save and except the confessional statement, there is no other material available on record, which suggests the complicity of the appellant in the present crime, apart from the fact that the other co-accused persons having identical allegation have already been granted bail by different co-ordinate Benches of this Hon'ble Court, let the appellant, above named, 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 Additional District Judge, 1st -cum-Special Judge, Katihar in connection with Katihar Town P. S. Case No. 416 of 2021, subject to the



condition that one of the bailors will be the close relative 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.

In view of the aforesaid fact, the impugned order dated 20.09.2021 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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