

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.111 of 2022

Arising Out of PS. Case No.-1 Year-2020 Thana- PATNA GRP CASE District- Patna

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1. Binod Rai, Son of Chhatri Rai, Resident of Village - Jethuli, P.S. - Nadi, District - Patna.
 2. Pintu Rai, Son of Chhatri Rai, Resident of Village - Jethuli, P.S. - Nadi, District - Patna.
 3. Sonu Rai, Son of Chhatri Rai, Resident of Village - Jethuli, P.S. - Nadi, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Nitish Kumar Paswan, Son of Lakshmi Paswan, Resident of Village - Baikatpur, P.S. - Khushroopur, District - Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Arvind Kumar, Advocate
For the State	:	Mrs.Usha Kumari 1, Spl. PP
For the Respondent no.2	:	Mr. Amit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 15-09-2022

Heard learned counsel for the appellants, learned Spl.PP
for the State and learned counsel for the respondent no.2.

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 Section 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
04.09.2021 passed by the learned Additional District and Sessions
Judge-III-cum-Special Judge, SC/ST, Patna, in connection with
Patna Junction (GRP) P.S. Case No. 01 of 2020, registered for the



alleged offences under Sections 302, 201 and 34 of the Indian Penal Code and Sections 3 (ii) (v) of the Scheduled Castes and Scheduled Tribes Act.

As per the prosecution case, the brother of the informant was murdered by slitting his throat and the informant named the appellants along with other co-accused persons who had killed the brother of the informant due to his love affair with the female co-accused.

The learned counsel for the appellants submits that there is no eye-witness to the alleged occurrence and the appellants have been named in this case merely on suspicion. During investigation, nothing came on record to show the involvement of the appellants in the alleged occurrence. The appellants and the brother of the informant was having some previous dispute and for this reason they have been falsely implicated in this case. Except for confessional statement of the co-accused, nothing has come against the appellants during investigation. Learned counsel further submits that other similarly placed co-accused persons, namely, Ukha Kumari, Sindhu Rai, Fekan Rai and Chhatri Rai have been granted bail by different Co-ordinate Benches of this Court vide respective orders dated 19.06.2020, 28.09.2020 and 24.06.2021 passed in Cr. Misc. No. 20076 of 2020, 25347 of 2020 and 3955 of 2021, respectively. The case of the appellants are on



better footing. Charge-sheet has been submitted in this case and the appellants no.1 and 2 are in custody since 18.01.2021, whereas appellant no. 3 is in custody since 26.11.2020. The appellants are having clean antecedent.

Learned Spl. PP as well as learned counsel for the respondent no. 2 opposes the submission made on behalf of the appellants. Learned counsel for respondent no.2 submits that in paragraphs 7, 8, 17, 23, 33, 35, 36, 39, 54, 58, 70, 71, 72, 73, 74, 81, 93 and 140 of the case diary and paragraph 197 of supplementary case diary, the material is available on record to show the complicity of the appellants in the occurrence. However, he concedes that there is no eye-witness and no incriminating article has been recovered at the instance of all the appellants.

Perused the records.

Having regard to the submissions made hereinabove and considering the fact that the material available on record show no tangible material to connect the appellants with the crime of murder of brother of the informant and further considering the grant of bail to other similarly placed co-accused persons and also considering the clean antecedent of the appellants as well as their period of custody, the appellants above named are directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-III-cum-Special



Judge, SC/ST. Act, Patna in connection with Patna Junction (GRP)
P.S. Case No. 01 of 2020, subject to the conditions mentioned in
Section 437(3) of the Code of Criminal Procedure and also the
following conditions :

- (i) One of the bailors will be a close relative of the appellants.
- (ii) The appellants will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellants 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)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2022
Transmission Date	16.09.2022

