

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.14 of 2022

Arising Out of PS. Case No.-108 Year-2021 Thana- DALSINGHSARAI District- Samastipur

Bachchan Kumar Son of Nakhe Sahni Resident of Village - Lallu Pokhar
Ward No.31, P.s.- Kasim Bazar, Distt.- Munger.

... .. Appellant/s

Versus

1. The State of Bihar
2. Ghuran Paswan Son of Singheshwar Paswan Resident of Village -
Ballochak, P.S.- Dalsinghsarai, Distt.- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rajesh Kumar, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-12-2022

Earlier notice was issued to respondent no.2 through both modes but no service report is on record. Thereafter, notice was ordered to be issued through Superintendent of Police for intimation to the informant regarding the proceeding taking place in this Court. This order was passed on 03.11.2022 thereafter on the next date and today also none is present on behalf of the respondent no.2. Hence, the matter has been put up for hearing.

Heard learned counsel for the appellant, learned counsel for the State.

Let the defect (s), if any, as pointed out by the office, be removed within a period of four weeks.



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 30.11.2022 passed by learned Special Judge SC/ST (POA) Act, Samastipur in connection with Dalsinghsarai P.S. Case No. 108 of 2021 registered for the alleged offences under Sections 365, 363, 364, 302, 120, 379 and 201 of the Indian Penal Code and Sections 3 (1)(r)(s)/3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the son of the informant was running an e-rickshaw which was booked by co-accused Sunil Sahni. Thereafter, the son of the informant went missing with his e-rickshaw. Later on, his dead body was recovered. During investigation, the name of the petitioner surfaced as one of the accused persons having complicity in the abduction and murder of the son of the informant.

Learned counsel for the appellant submits that the appellant has been falsely implicated in this case. The appellant has been made accused in this case on the basis of recovery of the mobile phone said to be belonging to the deceased. But the father of the deceased claim that the mobile phone of his son was of Vivo company whereas the recovered mobile of this



appellant is of Oppo company. Moreover, it has come during investigation that the said mobile phone was used by two other persons namely Ajay Chaudhary and Anil Sharma but they were not made accused in this case. The co-accused Sunil Sahni was granted bail vide order dated 29.09.2022 passed in Cr. Appeal (SJ) No. 878 of 2022. The appellant is in custody since 25.09.2021 and charge-sheet has been submitted.

Learned Spl.PP opposes the prayer for bail.

Perused the records.

From perusal of the case diary and seizure memo, paragraph-31 of the supplementary case diary shows the IMEI number of the mobile phone belonging to the appellant was recovered from this appellant who failed to produce any documents for the same. On this point, it appears from paragraph-30 of the supplementary case diary that the appellant claimed that the said mobile phone was given to him by his brother-in-law Ajay Chaudhary for selling it. Hence, the case of the appellant is not at similar footing with the other co-accused who has been granted bail.

Having regard to the facts and circumstances and considering the fact that the recovered mobile phone having the same IMEI number as that of the mobile phone of the deceased



was recovered from this appellant, I am not inclined to enlarge this appellant on bail.

Hence, his prayer for bail is rejected.

However, the learned trial court is directed to expedite the trial and conclude the same preferably within a period of nine months.

If the trial is not concluded within a period of nine months, then the appellant may renew his prayer for bail.

(Arun Kumar Jha, J)

Rajnish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2022
Transmission Date	14.12.2022

