

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.333 of 2023**

Arising Out of PS. Case No.-195 Year-2022 Thana- JAGDISHPUR District- Bhagalpur

Bihari Yadav Son Of Umesh Yadav @ Bouki Yadav R/O Village- Fatehpur,
P.S.- Jagdishpur, District- Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Manjula Devi Wife Of Naresh Das R/O Village- Bhawanipur, P.S.- Jagdishpur, District- Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agarwal, Sr. Adv Mr. Ranjan Kumar Jha, Adv
For the Respondent/s	:	Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 27-07-2023 Heard learned counsel for the appellant,

informant and learned Special P.P for the State.

The appellant has challenged the order dated 06.12.2022 passed by learned Additional Sessions Judge-III-cum-Special Judge, SC/ST Act, Bhagalpur in connection with Jagdishpur P.S. Case No. 195 of 2022(Special SC/ST Case No. 78/2022) instituted for the offences punishable under Sections 302, 120(B) of the Indian Penal Code and Sections 3(1)(r), 3(2)(s)(va) of the SC/ST Act whereby his prayer for being released



on bail has been rejected.

The prosecution case as per F.I.R is that on the alleged date and time of occurrence, co-accused Changuri Kumar allured the son of the informant and took him to orchard to eat fruit. It is further alleged that all the F.I.R named accused persons including caretaker of the said orchard and 4-5 other persons having conspired, killed the son of the informant, inserting wooden stick in his mouth. It is further alleged that accused persons surrounded the son of the informant and assaulted him by bricks and rod who died during course of treatment.

It is submitted by learned counsel for the appellant that appellant is innocent and he has falsely been implicated in this case. For the alleged occurrence of 16.05.2022, the F.I.R was instituted on 20.05.2022 without explaining the delay. The informant is not the eye witness to the occurrence and no one has claimed to have seen the alleged occurrence. There is a dispute



between the appellant and the informant from before. On the alleged date and time of occurrence, the appellant was conducting a case as a Sarpanch in Gram Kachchari on the application of Hari Mandal. During investigation, several independent witnesses have admitted that appellant was holding Gram Kachchari on the date and time of occurrence and further enmity between the informant and appellant. The appellant is in custody since 21.09.2022. Moreover, other co-accused has been granted privilege of bail by a coordinate Bench of this Court vide order dated 29.04.2023 passed in Cr. Appeal (SJ) No. 3575 of 2022.

Learned counsel appearing on behalf of the informant and learned Special P.P appearing on behalf of the State have vehemently opposed the prayer for bail of the appellant.

Taking into account the aforesaid facts, this Court deems it appropriate to set aside the order dated 06.12.2022.



Accordingly, this appeal is allowed.

The appellant, above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III-cum-Special Judge, SC/ST Act, Bhagalpur in connection with Jagdishpur P.S. Case No. 195 of 2022 with the following conditions:-

(i) The appellant shall co-operate in the trial and present himself on each and every date fixed by the Court.

(ii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail of the appellant.

(Sunil Kumar Panwar, J)

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