

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.1075 of 2022

Arising Out of PS. Case No.-1 Year-2021 Thana- KOTHI District- Gaya

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Shamim Kuraishi S/o Md. Nayeem Kuraishi @ Kallu Kuraishi R/o village-
Basura, P.S.- Kothi, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Mukesh Kumar S/o Jageshwar Razak R/o village- Hesar Rampur, P.S.-
Maigra, District- Gaya

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shivendra Prasad

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

6 01-02-2023 Heard Ld. counsel for the appellant and Ld. Special

Public Prosecutor for the State.

Despite valid service of notice, nobody is present

on behalf of the informant.

This criminal appeal has been filed to enlarge the

appellant on bail, impugning the order dated 09.02.2022,

passed by the Ld. Exclusive Special Judge SC/ST, Gaya, in



connection with Kothi P. S. Case No. 01 of 2021, registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code and Sections 3(v) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is that the sister of the informant was killed by the appellant and his associates.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that the petitioner is not named in the F.I.R. and his name has transpired only in the confessional statement of co-accused, Taslim, who has already been enlarged on bail by a co-ordinate Bench of this Court *vide* order dated 05.08.2021, passed in Cr. Appeal (SJ) No. 2052 of 2021.

He further submits that the appellant has been languishing in jail since 04.01.2021.

It has also been stated in paragraph no. 3 of the



appeal that the appellant has no criminal antecedents.

It is also stated in paragraph no. 2 of the appeal that the appellant has not moved this Court earlier either for anticipatory bail or regular one.

However, Ld. Special Public Prosecutor for the State vehemently opposes the prayer of the appellant for bail.

Considering the aforesaid facts and circumstances, the appeal is allowed, setting aside the impugned order dated 09.02.2022, passed by Ld. Exclusive Special Judge SC/ST, Gaya, and directing the appellant to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Exclusive Special Judge SC/ST, Gaya in connection with Kothi P. S. Case No. 01 of 2021 on the following conditions:

(i) The appellant will make himself available for interrogation by a police officer/court as and when required.

(ii) The appellant will undertake that investigation/trial will not hamper on account of his absence



or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The appellant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the trial court that the appellant has any criminal antecedents, the Ld. trial court shall cancel the bail bonds of the appellant after hearing him and getting satisfied that the appellant has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the trial court that statement regarding previous bail appeal is wrong, the Ld. trial court shall cancel the bail bonds of the appellant.

Ld. counsel for the appellant is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the



certified copy of this order only after removal of office
objections.

(Jitendra Kumar, J)

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