

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1662 of 2023

Arising Out of PS. Case No.-388 Year-2022 Thana- BIBHUTIPUR District- Samastipur

SIKANDAR PASWAN Son of Gango Paswan R/V- Manda, PS-Bbhutipur
Dist- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Ram Shri Devi Wife of Santosh Paswan R/o Mahthi, Tola, Jogiya, P.S-
Bibhutipur dist- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mirityunjay Kumar, Adv.
For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 11-08-2023 1. Heard learned counsel for the appellant and learned
Special P.P. for the State.

2. This is an appeal under Section 14 (A)(ii) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act, 2016 (hereinafter referred to as the “SC/ST Act”) against the
refusal of prayer for regular bail vide order dated 07.02.2023 passed
by the learned Special Judge SC/ST (P.O.A.) Act, Samastipur in
connection with Bibhutipur/Vibhutipur P.S. Case No.388 of 2022,
F.I.R. dated 10.10.2022 registered under Sections 147, 148, 149, 302,
120(B) of the Indian Penal Code and Section 3(2)(v) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act.

3. According to FIR, one unknown person called the



deceased on mobile and told to come at Khoksaha chowk near Rimjhim Hotel for his due wages and thereafter the deceased went there but did not return back and his mobile was also found switched off. On the next morning, the dead body of the deceased was found near labkaha orchard southern side of Khoksha chowk.

4. Learned counsel for the appellant submits that the appellant has out-rightly submits that both the parties belong to the same community, so, no case under SC/ST Act is made out against the appellant and the appellant has one criminal antecedent other than the present one in which he is on bail. Learned counsel for the appellant submits that the allegation as alleged in the F.I.R. is false and fabricated and the appellant is not named in the F.I.R. The name of the appellant has been transpired during investigation on the basis of confessional statement of the co-accused, namely, Singheshwar Mahto and thereafter the self confessional statement of the appellant was recorded and it has come during investigation that CDR location of the appellant was found near the place of occurrence. Learned counsel for the appellant further submits that the appellant is brother-in-law of the deceased and he is resident of same locality and except the aforesaid no other cogent material has come during investigation to suggest the involvement of the appellant in the present occurrence. He further submits that co-accused, namely, Singheshwar Mahto, who confessed the involvement of the appellant in the present occurrence has been granted bail vide order dated 18.05.2023 passed



in Cr. Appeal (SJ) No.1286/2023 and wife of the deceased namely, Neelam Devi, who has also been made accused in the present case has been granted bail by Co-ordinate Bench of this Court vide order dated 06.07.2023 passed in Cr. Appeal (SJ) No.1470/2023 and the police, after investigation, submitted charge sheet against the appellant and the appellant is in custody since 13.10.2022.

5. Learned Spl. P.P. for the State has vehemently opposed the prayer for bail of the appellant and submits that the bicycle of the appellant has been recovered from the place of occurrence, so, there is strong suspicion against the appellant that he is involved in the present occurrence.

6. Considering the facts and circumstances of the case, let the appellant, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge SC/ST (P.O.A.) Act, Samastipur or Successor Court, in connection with Bibhutipur/Vibhutipur P.S. Case No.388 of 2022, with the following conditions:-

(1) Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) 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.

(3) And, further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bond in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

7.Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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