

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1856 of 2023**

Arising Out of PS. Case No.-266 Year-2021 Thana- KOILWAR District- Bhojpur

Dhanpat Yadav @ Dhanpat Kumar Son of Rupan Yadav Resident of village-
Barka Chanda, P.O.-Katkaira, P.S.-Koilwar, District-Bhojpur (Ara)

... .. Appellant/s

Versus

1. The State of Bihar.
2. PUSHPA DEVI W/o Late Santosh Paswan @ Punchi Paswan Resident of
village-Chotka Chanda, P.S.-Koilwar, District-Bhojpur (Bihar)

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manoj Kumar Singh, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

4 18-08-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

It appears from the office note that the notice has
validly served upon respondent no.2. Despite of that no one
appears on behalf of respondent no.2.

This is an appeal under Sections 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, against refusal of the prayer for regular bail of
the appellant by order dated 23.03.2023 passed by the learned –
1st Additional Sessions Judge-cum-Special Judge, SC/ST Act,
Bhojpur at Ara in connection with Kolwar P.S. Case No.266 of
2021 registered under Sections 302/34 of the Indian Penal Code



and Sections 3(i)(r)(s), 3(2)(v) of SC/ST Act, 1989.

As per prosecution case, as per F.I.R. is that on 11.06.2021 the informant's husband (deceased) had gone outside of the house, all the F.I.R. named accused persons had many times assaulted the informant's son for wine and may times they have threatened the informant's husband. The informant has believe that all the accused persons murdered her husband.

Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the appellant has not committed any offence as alleged in the F.I.R. He further submits that it has come during investigation in para-8 of the case diary that the co-accused namely, Kamlesh Yadav and Upendra Yadav have provide the illicit liquor to the deceased and there is no acquisition against the appellant that he has provide the illicit liquor to the deceased. He further submits that similarly situated, co-accused, namely, Kamlesh Yadav who has provide the illicit liquor to the deceased has been granted bail by a co-ordinate Bench of this Hon'ble Court vide order dated 21.07.2022 passed in Cr. Appeal (SJ) No. 4585 of 2021.



He further submits that the police, after investigation, submitted the charge sheet against the appellant and the appellant is in custody since 16.03.2022.

The learned counsel appearing on behalf of the Respondent No.2 as well as learned Special Public Prosecutor have vehemently opposed the prayer for bail of the appellant and submits that there is sufficient material has come during investigation to suggest the involvement of the appellant in the present occurrence and the F.S.L. report suggest that the cause of death is CELPHOS (poison).

Considering the aforesaid facts and circumstances and period of custody, let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara in connection with Koilwar P.S. Case No. 266 of 2021, subject to 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 bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

Accordingly, the impugned order dated 23.03.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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