

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1785 of 2022

Arising Out of PS. Case No.-425 Year-2021 Thana- JAGDISHPUR District- Bhojpur

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RAKESH KUMAR Son of - Awadh Bihari Singh Resident of Village -
Morcha, P.S.- Jagdishpur, District - Bhojpur.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Shivdhari God Son of late Vimal God Resident of Village - Jagdishpur Jaga
Ke Pipal Ward No. 18, P.S. - Jagdishpur, District - Bhojpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shiv Prasad Gupta
For the Respondent/s : Mr. Sadanand Paswan
For the Respondent No. 2: Mr. Amarendra Kumar

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 04-01-2023 Heard Ld. counsel for the appellant and Ld.

Special Public Prosecutor for the State and Ld. Counsel for

the informant/respondent No. 2.

This criminal appeal has been filed to enlarge the

appellant on bail, impugning the order dated 24.03.2022,

passed by the Ld. (In-Charge) 1st Additional Sessions Judge

Cum Special Judge SC/ST Act Bhojpur at Ara, arising out of



Jagadishpur P.S. Case No. 425 of 2021, registered for offence punishable under Sections 365, 302, 201,34 of Indian Penal Code and 3 (ii) (v) SC/ST Act, whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is that the son of the informant was missing since 13.10.2021 from 11:00 PM with his mobile no. 9065204678.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that the FIR has been lodged against unknown and the case against the appellant is based only on suspicion and so called confessional statement and no legally tenable evidence has been obtained during the investigation. He also submits that similarly situated co-accused, namely, Awadh Bihari Singh and Kanchan Kumari have already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 25.08.2022 and 25.08.2022 passed in Cr. Appeal (SJ) No. 744 of 2022 and 756 of 2022.

He further submits that the appellant has been



languishing in jail since 20.10.2021.

It has also been stated in paragraph no. 3 of the bail petition that the petitioner has no criminal antecedents.

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

However, the Ld. Special Public Prosecutor for the State and Ld. Counsel for the informant 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 24.03.2022, passed by the Ld. (In-Charge) 1st Additional Sessions Judge Cum Special Judge SC/ST Act Bhojpur at Ara, 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 the Ld. (In-Charge) 1st Additional Sessions Judge Cum Special Judge SC/ST Act Bhojpur at Ara, in connection with Jagadishpur P.S. Case No. 425 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 court below that the appellant has any criminal antecedent, the learned court below shall cancel the bail bond of the appellant after hearing him and getting satisfied that the appellant has concealed his criminal antecedent despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of



the appellant.

learned 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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