

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2260 of 2023

Arising Out of PS. Case No.-305 Year-2022 Thana- PHULWARISHARIF District- Patna

MUKESH KUMAR @ MUKHIYA S/O LATE DEO PRASAD MISTRI
Resident of Chunauti Kuan, P.S.-Phulwarisharif, District-Patna

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Nawal Kishore Prasad

For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

3 03-08-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

The instant appeal has been filed by the appellant against the order dated 15.3.2023 passed by learned Special Judge SC/ST Act, Patna in Special Case No. 80 of 2022 whereby the prayer for bail of the appellant in connection with Phulwarisharif P.S. Case no. 305 of 2022 under Sections 302, 120B of the Indian Penal Code and sections 3(2)(v) of SC/ST Act was rejected.

According to the Fir, It is further alleged that the petitioner is indulged in hatching conspiracy to kill the son of the informant in connivance with other co-accused persons.

It is submitted by learned counsel for the appellant that appellant has been falsely implicated in this case on the



basis of suspicion. The appellant is not named in the FIR rather his name was transpired in this case on the basis of confessional statement of other co-accused namely, Deepak Kumar, before the police which has got no evidentiary value in the eye of law. No offence is made out under the provisions of the SC/ST Act against him. Except confession, no any consistent material has come against the petitioner during course of the investigation. It is also submitted that the main co-accused namely, Saddam who has earlier threatened to the deceased has already been granted bail vide order dt. 1.12.2022 passed in Cr. Appeal (SJ) No. 2680 of 2022, hence the case of this appellant stands on similar footing of that of the co-accused.

The appeal for bail is opposed by learned Spl. P.P. for the State.

Having heard learned counsel for the parties and taking into consideration that there is general and omnibus allegation against the appellant, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 15.3.2023 passed in Special Case No. 80 of 2022 is hereby set aside.

The appellant is directed to be enlarged on bail in connection with Phulwarisharif P.S. Case No. 305 of 2022 on



furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only)
with two sureties of the like amount each to the satisfaction of
the learned Special Judge SC/ST Act, Patna.

(Sunil Kumar Panwar, J)

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