

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2837 of 2022

Arising Out of PS. Case No.-433 Year-2022 Thana- TURKAULIYA District- East
Champaran

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Krishna Bhagat Son Of Sri Kashi Bhagat R/O Village- Chailaha, Pakadia,
P.S.- Banjariya, District- West Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Pushpa Devi Wife Of Sri Pappu Kumar Ram R/O Village- Bada Baudha,
P.S.- Sugauli, District- East Champaran

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Sadanand Paswan, APP
For the Respondent No. 2:	:	Mr. Rahul Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

6 15-02-2023 Learned counsel Mr. Abhishek Kumar, appearing for the appellant, learned counsel Mr. Rahul Singh appearing for respondent No. 2 and learned APP Mr. Sadanand Paswan, appearing for the State are present and they are heard.

The instant appeal has been preferred to set aside the order dated 05.07.2022 passed by the Court of learned Special Judge, under SC/ST Act, East Champaran at Motihari in connection with Turkaulia(Banjariya) P.S. Case No. 433 of 2022 by which the appellant's prayer for bail was rejected.

The main submissions advanced by learned counsel Mr. Abhishek Kumar, appearing for the appellant are that the instant matter relates to breach of agreement which was made in



between informant and co-accused Jitendra Kumar Gupta regarding transfer of a particular land and in that transaction the appellant simply introduced the said co-accused to the informant and after that all the consideration amount which was fixed in between informant and the said Jitendra Kumar Gupta, was paid in various modes to the said Jitendra Kumar Gupta and not to the appellant and he did not get any monetary benefit from the alleged agreement and he was simply made a guarantor of the co-accused Jitendra Kumar Gupta and he was shown as a witness in the alleged deed of agreement and moreover, the alleged wrong mentioned in the FIR mainly attracts a civil wrong. Further submission is that the appellant has been languishing in jail since 14.06.2022, having clean antecedent.

Learned counsel for respondent No. 2 has vehemently opposed the prayer for bail of the appellant and submitted that on believing the appellant the informant(respondent No. 2) made the alleged transaction of money with the co-accused Jitendra Kumar Gupta and paid huge amount to him by mode of several cheques and the appellant was involved in the alleged transaction.

Considering the above submissions and mainly the fact that the main allegation of misappropriation or breach of



contract is against the co-accused namely, Jitendra Kumar Gupta to whom the informant transferred the alleged money and also the fact that the alleged wrong mentioned in the FIR in respect of the petitioner, mainly attracts the civil wrong and also considering the appellant's custody period, the order of learned Court below rejecting the bail prayer of the petitioner does not appear to be proper hence, it stands set aside and the present appeal stands allowed and the appellant is directed to 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 Special Judge, under SC/ST Act, East Champaran at Motihari in connection with Turkauliya (Banjariya) P.S. Case No. 433 of 2022.

(Shailendra Singh, J.)

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