

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4043 of 2021

Arising Out of PS. Case No.-257 Year-2020 Thana- DIGHA District- Patna

PAWAN KUMAR @ POPO Son of Mohan Roy Resident of Village -
Makhdumpur, Gate No.- 89, Digha, P.S. - Digha, District - Patna, Pin Code -
800011 (Bihar)

... .. Appellant

Versus

1. The State of Bihar
2. Chanda Devi wife of Ranvir Jaat R/O vill- Makhdumpur, Gate No. 90, P.S.-
Digha, District- Patna

... .. Respondents

Appearance :

For the Appellant/s	:	Ms.Apurva Kumari, Advocate Mr.Santosh Bharti, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. PP
For the Informant	:	Ms.Anu Priyadarshani, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 12-04-2023 Heard learned counsel for the appellant, learned
counsel for the State and learned counsel for the informant.

Learned counsel for the appellant has shown to this
Court receipt granted by Mr. Binay Krishna, learned Special PP
showing receipt of the application seeking condonation of delay.
In that view of the matter, S.R. defect no. 6(5) has been
complied with.

As regards, service of notice on respondent no. 2 is
concerned, according to the process server report, respondent
no. 2 does not live at the given address.

Learned counsel for the appellant submits that this
case is pending consideration since 27.09.2021 and its hearing



has already been delayed due to adjournment granted from time to time to ensure service of notice on respondent no. 2. It is stated that on 23.11.2022 when this appeal was taken up for consideration, this Court noticed the undelivered notices granted time to the petitioner to take fresh steps to file requisites for service of notice on respondent no. 2 through the learned court below. The said order was complied with but even the said process did not yield the result.

Learned counsel submits that earlier this Court had rejected the prayer for bail of the appellant vide order dated 06.07.2021 in Criminal Appeal No. 107 of 2021 (S.J.) with an observation that if the trial remains un-concluded for a period of 9 months from the date of start of normal functioning of the Court, the appellant may renew his prayer for bail. It is stated that since the last order of this Court, there is no second progress in the trial. In the mean time, the appellant has remained in custody since 20.08.2020. It is submitted that there is no specific allegation against the petitioner and there being general and omnibus allegation, this Court had given observation in the order dated 06.07.2021. It is further submitted that instead of 9 months from the date of the observation, now more than 20 months have gone but the trial has not been



concluded.

Mr. Binay Krishna, learned Special Public Prosecutor for the State has though opposed the prayer for bail of the appellant but does not dispute that the appellant has remained in jail for more than two and half years.

In this case, the sole appellant is seeking setting aside of the order dated 03.10.2020 passed by learned Additional District and Sessions Judge- Xth -cum- Special Judge, SC/ST, Patna in connection with Digha Police Station Case no. 257 of 2020 (Special Case No. 251 of 2020) registered for the offences punishable under Sections 341, 323, 325, 307, 365, 34 of the Indian Penal Code and Section 3(ii)(v) of the Scheduled Case & Scheduled Tribe (Prevention of Atrocity) Act. Petitioner has got two criminal antecedents.

In view of the observations of this Court, granting liberty to the appellant to renew the prayer for bail, this Court condones the delay in filing of the appeal. The limitation being I.A. No. 01 of 2022 is allowed. Since the appellant has already remained in custody as under-trial prisoner for more than two and half years, this Court sets aside the impugned order and directs release of the appellant on bail on furnishing bail bond of Rs. 25, 000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each in connection with Digha P.S. Case No. 257 of 2020 (Special Case No. 251 of 2020) to the satisfaction of learned



Additional District Judge Xth-cum-Special Judge, SC/ST Act,
Patna, subject to the condition as laid down under Section 437
(3) Cr.P.C.

And further condition that the court below shall verify
the criminal antecedent of the petitioner and in case at any stage
it is found that the petitioner has concealed his criminal
antecedent, the court below shall take step for cancellation of
bail bond of the petitioner. 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.

(Rajeev Ranjan Prasad, J)

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