

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2948 of 2022

Arising Out of PS. Case No.-164 Year-2022 Thana- DESARI District- Vaishali

-
-
1. MUKESH SAHNI S/o Rambabu Sahni Resident of Village- Chainpur Nanhakar, P.S.- Desari, District- Vaishali.
 2. RAMBABU SAHNI S/o Chanchal Sahni Resident of Village- Chainpur Nanhakar, P.S.- Desari, District- Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar
2. MUKESH PASWAN S/o Madan Paswan Resident of Village- Chainpur Nanhakar, P.S.- Desari, District- Vaishali.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Shivam
For the Respondent/s	:	Mr.Sadanand Paswan
For the Informant		Mr. Anirudh Kr. Singh

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 02-02-2023 Heard learned counsel for the appellants, learned counsel for the informant and learned Special Public Prosecutor for the State.

The instant appeal has been filed by the appellants against the order dated 21.07.2022 passed by learned Special Judge SC/ST, Vaishali at Hajipur in Desari (Chandpura O.P.) P.S. Case No. 164 of 2022 whereby the prayer for bail of the appellants under Section 302/34, 201 of the Indian Penal Code and sections 3(2)(v) of SC/ST Act was rejected.

As per allegation in the FIR, accused Magra Sahani called informant's brother from his house and he did not return



till late night. In the next morning, his dead body was found lying in the field of Ramesh Rai. On Query, informant came to know that accused Ramu Sahni, Ankush Sahni, Lalita Devi, Magra Sahni in connivance with both the appellants have killed his brother by throttling and threw his dead body in maize field because of deceased was in talking term with the daughter of accused Ramu Sahni.

It is submitted by learned counsel for the appellants that appellants have been falsely implicated in this case. There is no eye witness of the alleged occurrence. Only on the basis of confessional statement of co-accused Magra Sahni, taken by the police after applying physical torture, name of the appellants have been surfaced in the present case, which has no evidentiary value in the eye of law. Save and except, confessional statement, no other material is against the appellants to implicate him in the present case. No offence is made out under the provisions of the SC/ST Act against them. The appellants have not taken the caste name of the informant in public view and they had no intention to disgrace his image. Similarly situated accused Lalita Devi has already been granted bail by another Bench vide order dated 8.12.2022 passed in Cr. Misc. No. 2891 of 2022. Both the appellants are languishing in judicial custody since



18.04.2022.

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 appellants, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 21.07.2022 passed in Desari (Chandpura O.P.) P.S. Case No. 164 of 2022 is hereby set aside.

The appellants are directed to be enlarged on bail in connection with Desari (Chandpura O.P.) P.S. Case No. 164 of 2022 in the event of arrest or surrender before the court below within a period of four weeks on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) each with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST, Vaishali at Hajipur.

(Sunil Kumar Panwar, J)

sushma/-

U			
---	--	--	--

