

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3143 of 2022

Arising Out of PS. Case No.-28 Year-2022 Thana- DHANKUND District- Banka

Parmanand Yadav Son Of Murlidhar Prasad Resident Of Village- Alipur P.S.
Nawada Bazar, Distt.- Banka

... .. Appellant/s

Versus

1. The State of Bihar
2. Sunil Kumar Manik Lal Hajra Resident of Village- Alipur, P.O./ P.S-
Nawada Bazar, District- Banka

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 3087 of 2022

Arising Out of PS. Case No.-28 Year-2022 Thana- DHANKUND District- Banka

1. Pappu Yadav Son of Late Murlidhar Yadav Resident of Village - Alipur, P.S.-
Nawada Bazaar (Rajoun), District - Banka.
2. Kundan Yadav Son of Parmanand Yadav Resident of Village - Alipur, P.S.-
Nawada Bazaar (Rajoun), District - Banka.
3. Nanku Kumar Son of Gopal yadav Resident of Village - Lailakh, P.S. -
Sabour, District - Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Shiv Kumar Suman, S/o- Ganga Prasad Yadav, R/o vill- Sisouni, P.S.
Phulparas, Dist- Madhubani.

.....Respondent/s

with

CRIMINAL APPEAL (SJ) No. 3157 of 2022

Arising Out of PS. Case No.-28 Year-2022 Thana- DHANKUND District- Banka

Ashish Kumar @ Bivash Kumar, Son of Vindeshwari Yadav Resident of
Village - Kharhara, P.S. Rasalpur, District - Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with
CRIMINAL APPEAL (SJ) No. 3314 of 2022

Arising Out of PS. Case No.-28 Year-2022 Thana- DHANKUND District- Banka

Roshan Kumar @ Roshan Kumar Paswan S/O Rambilash Paswan Resident of
Sakin- Makroundha, P.S.- Nawada Bazar, O.P.- District- Banka.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 3143 of 2022)

For the Appellant/s : Ms. Kumari Anupam, Adv.

For the Respondent/s : Ms. Usha Kumari 1, APP.

(In CRIMINAL APPEAL (SJ) No. 3087 of 2022)

For the Appellant/s : Mr. Sanjay Kumar Jha, Adv.

For the Respondent/s : Mr. Sadanand Paswan, APP.

(In CRIMINAL APPEAL (SJ) No. 3157 of 2022)

For the Appellant/s : Mr. Prakritita Sharma, Adv.

For the Respondent/s : Mr. Binay Krishna, APP.

(In CRIMINAL APPEAL (SJ) No. 3314 of 2022)

For the Appellant/s : Mr. Samir Kumar, Adv.

For the Respondent/s : Mr. Binay Krishna, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT

Date : 20-02-2023

As all these appeals have arisen out of the same order dated 13.07.2022 passed in respect of the bail petitions of the appellants by the trial Court in connection with G.R. Case No. 17/2022 which has arisen out of Dhankund P.S. Case No. 28/2022 registered under Sections 302 and 201/34 of the Indian Penal Code (in short I.P.C.) and Section 3(2)(va) of SC/ST (POA) Act hence, all these appeals are being taken up and decided together by a common judgment.

2. The bail prayer of all the appellants has been rejected by the order impugned from which being aggrieved and dissatisfied, these appeals have been filed by the appellants.

3. The substance of the allegation appearing from the FIR of Dhankund P.S. Case No. 28/2022 is that on the alleged date and time of occurrence during the course of checking of vehicles by the police, the alleged vehicle was found in suspicious condition and the same was stopped by the police and then the appellants Kundan Yadav, Nanku kumar, Ashish Kumar @ Bivash Kumar, Roshan Kumar @ Roshan Kumar Paswan were apprehended at the spot in the alleged vehicle and the rest appellants namely, Pappu Yadav and Parmanand Yadav and other accused persons managed to escape and in the said vehicle, the body of a woman who was in unconscious condition was found and the apprehended appellants could not give satisfactory answer about the presence of the victim in the said condition and thereafter the police rushed the victim to a nearby Primary Health Center where the victim was declared brought dead and thereafter on interrogation, the said appellants accepted their role in the alleged crime and revealed that the said woman (victim) was

murdered on account of the victim having solemnized love marriage with other person belonging to different caste while the victim belonged to a different caste. It was further revealed by the apprehended appellants that the appellants including other relatives of Rajesh Kumar, who solemnized marriage with the victim, were also not happy with the said marriage and they wanted to separate the victim and Rajesh Kumar and finally, the said Rajesh Kumar was ousted by his family members but despite of that, the victim did not leave the house of her in-laws and finally in furtherance of conspiracy she was strangled to death by the appellants Pappu Yadav, Parmanand Yadav, Kundan Yadav, Ashish Kumar @ Bivash Kumar and other in-laws and the vehicle of the appellant Roshan Kumar @ Roshan Kumar Paswan was hired to take the body of the deceased (victim) for the purpose of disposing of the same but in the meantime on the way, the above-mentioned appellants were apprehended by the police.

4. It is submitted by learned senior counsel appearing for the appellant namely, Parmanand Yadav that there is no eye-witness of the alleged murder and the said appellant has been dragged in this case mainly on the basis of

confessional statement of co-accused persons and the appellant has been languishing in jail since 17.05.2022 and the whole prosecution is based on imagination and the appellant had no concern with the family affairs of the father-in-law of the victim.

5. It is submitted by learned counsel for the appellants namely Pappu Yadav, Kundan Yadav and Nanku Kumar that no complaint was made by the deceased or her parents against the said appellants and the entire allegation in the FIR is made on suspicion and there is no evidence to show the appellants having committed the murder of the deceased (victim) and the appellant namely, Pappu Yadav has been languishing in jail since 17.05.2022 and the appellant namely, Kundan Yadav and Nanku Kumar have been languishing in jail since 19.03.2022 and the investigation has been completed against all these appellants. Further submission is that the appellant No. 1 is father-in-law, appellant No. 2 is cousin brother-in-law and appellant No. 3 is a relative of the deceased and in fact, the deceased was seriously ill on the alleged day and she was being taken by the apprehended appellants for better medical treatment in the alleged vehicle and at that time they were on

way to a nearby hospital. Further submission is that the Doctor concerned who examined the body of the deceased did not give any opinion with regard to the cause of death of the deceased and accordingly, the viscera of the deceased was sent to FSL.

6. It is submitted by learned counsel for the appellant Ashish Kumar @ Bivash Kumar that the appellant has fair and clean antecedent and the informant did not claim to have seen the alleged occurrence of murder and there is no any eye-witness and the appellant and other co-accused persons have been targeted in this case merely on the basis of suspicion and two co-accused persons namely, Sulekha Devi and Diwakar Kumar @ Diwakar Kumar Nirala who preferred their respective criminal appeal Nos. 2898/2022 and 3069/2022 have been granted bail by a co-ordinate Bench of this Court vide judgment dated 10.11.2022 passed in their criminal appeals and the present appellant has been languishing in jail since 20.03.2022.

7. It is submitted by learned counsel for the appellant namely, Roshan Kumar @ Roshan Kumar Paswan that the appellant has fair and clean antecedent and he was found in the alleged vehicle in the capacity of driver and the said vehicle was hired by the accused persons and other

appellants to take the victim to the hospital and the appellant was present with them bonafidely without being involved in the criminal intention of the accused persons and he has been languishing in jail since 20.03.2022 and the alleged vehicle has been released by the Court concerned.

8. Learned APPs appearing for the State have opposed the bail prayer of all the appellants and submitted that the order impugned by which their prayer for bail has been rejected, has been rightly passed and there is no merit in these appeals and the same are liable to be dismissed.

9. Heard both the sides and perused the order impugned, the FIR of the Dhankund P.S. Case No. 28/2022 and the case diary of the said P.S. Case. From the allegations made in the FIR, the victim was found in unconscious condition in the alleged vehicle and the appellants Kundan Yadav, Ashish Kumar @ Bivash Kumar, Nanku Kumar and Roshan Kumar @ Roshan Kumar Paswan were found in the alleged vehicle and they were apprehended at the spot and as per the prosecution, two co-accused persons were also present in that vehicle but they managed to escape and thereafter the said unconscious lady (victim) was taken to a nearby hospital where she was

declared brought dead. As per the FIR, the said apprehended appellants made contradictory statements and thereafter on deep interrogation, they accepted that the victim was murdered and the reason of the murder revealed by them was the victim belonging to different caste and her husband belongs to different caste, owing to which in-laws of the victim were not happy and finally they started torturing her and wanted to oust her from their house but the victim did not want to leave her *Sasural* and finally in furtherance of conspiracy, the appellants Pappu Yadav, Parmanand Yadav and Ashish Kumar @ Bivash Kumar and other in-laws assaulted the victim and killed her by strangulation and thereafter they made an attempt to dispose of the body of the victim but in the meantime, the above-mentioned appellants were apprehended. The nature of allegation appearing against all the appellants except the appellant namely Roshan Kumar @ Roshan Kumar Paswan is very serious and the instant matter relates to murder which was committed on account of the victim having solemnized love marriage with the person belonging to the different caste and some of the appellants mentioned-above were found with the body of the deceased when they were taking the same for disposing of and as per the *post-mortem* report available in the

case diary, some minor injuries on the body of the victim were also found. Considering the nature of allegation appearing against the appellants namely, Parmanand Yadav, Pappu Yadav, Kundan Yadav, Nanku Kumar and Ashish Kumar @ Bivash Kumar, the order impugned rejecting their prayer for bail appears to be proper and there is no need to interfere with the same. Accordingly, the appeals filed by the said appellants stand dismissed.

10. So far as the appellant namely, Roshan Kumar @ Roshan Kumar Paswan is concerned, as according to the allegation, he was found in the alleged vehicle in the capacity of driver and as per the prosecution's story, the said vehicle was simply hired to take the body of the deceased and there is no cogent material to show that the said appellant was involved in the commission of murder of the deceased and it appears that he simply provided the service of his vehicle to the other appellants and co-accused persons in taking the body of the deceased. So, considering the nature of allegation appearing against the said appellant, the order impugned rejecting his bail prayer does not appear to be proper hence, the order impugned to the extent to the said appellant stands set aside and the

criminal appeal (SJ) No. 3314/2022 filed by the appellant namely Roshan Kumar @ Roshan Kumar Paswan stands allowed and he 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 concerned Court in Connection with Dhankund P.S. Case No. 28/2022 (G.R. Case No. 17/2022).

(Shailendra Singh, J)

annu/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	02.03.2023
Transmission Date	02.03.2023