

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3193 of 2022

Arising Out of PS. Case No.-108 Year-2021 Thana- GAUTAMBUDHNAGAR District-
Siwan

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DINESH TIWARI SON OF LATE JANGLI TIWARY @ JANGLI TIWARI
R/O VILLAGE- MADHOPUR, P.S.- G.B. NAGAR, DIST.- SIWAN

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. HARI KISHUN RAM SON OF LATE FODDAR RAM R/O VILLAGE-
NATHANPURA, P.S.- G.B. NAGAR, DIST.- SIWAN

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Bijay Prakash Singh, Adv.
For the Respondent/s : Ms. Usha Kumari 1, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

4 18-01-2023 **I.A. no.1 of 2022**

Heard learned counsel for the parties.

Having heard learned counsel for the parties and
taking into consideration the contents of the petition, the prayer
made therein is allowed and the delay in filing of the instant
appeal is condoned.

I.A. no.1 of 2022 stands allowed.

Heard learned counsel for the appellant, learned Spl.
P.P. for the State and learned counsel for the respondent no.2.

The instant appeal has been preferred against the



order dated 6.7.2021 passed in G.B. Nagar P.S. Case no.108 of 2021 passed by learned 1st Additional District and Sessions Judge-cum-Special Judge, Siwan whereby the prayer for bail of the appellant was rejected.

The appellant was accused in a case registered under sections 302, 201 and 34 of the Indian Penal Code and section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

As per the prosecution case, the son of the informant was taken away by the appellant on his motorcycle at 8 a.m. and soon thereafter at about 2 p.m., his dead body was recovered.

The earlier prayer for bail of the petitioner was rejected vide order dated 7.10.2021 (Annexure-1) passed in Cr. Appeal (SJ) no.3344 of 2021.

It is submitted by learned counsel for the appellant that while rejecting his prayer for bail by the aforesaid order dated 7.10.2021, liberty was granted to the appellant to renew his prayer for bail after six months. The appellant has remained in custody since 3.6.2021 but there is no progress in the learned trial court and no chance of the trial concluding in the near future.

The prayer for bail is opposed by learned Spl. P.P. appearing for the State and learned counsel for the respondent



no.2. It is submitted by learned counsel appearing for the respondent no.2 that there is direct allegation against the appellant and charge having been framed, the trial will proceed expeditiously. The prayer for bail be rejected.

A report was called for from the learned trial court. As per the report received, contained in letter dated 24.12.2022 of the learned Additional District and Sessions Judge I-cum-Special Judge, Siwan, although summons have been issued, no witness has been examined on behalf of the prosecution.

Having heard learned counsel for the parties and taking into consideration the nature of allegation, the liberty granted in the aforesaid order dated 7.10.2021, the appellant having remained in custody since 3.6.2021 and there being no progress in the trial in the learned trial court, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated 6.7.2021 passed in G.B. Nagar P.S. Case no.108 of 2021 passed by learned 1st Additional District and Sessions Judge-cum-Special Judge, Siwan is set aside.

The appellant is directed to be enlarged on bail in connection with G.B. Nagar P.S. Case no.108 of 2021 on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the



learned 1st Additional District and Sessions Judge-cum-Special
Judge, Siwan.

(Partha Sarthy, J)

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