

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3571 of 2022

Arising Out of PS. Case No.-389 Year-2020 Thana- PURNEA SADAR District- Purnia

Monu Khan @ Monu, S/o Naeem Akhtar @ Naim Akhtar @ Moin Akhtar
Resident of village- Lakhan Jhari Khanka, Police Station- Purnia Sadar,
District- Purnia

... .. Appellant/s

Versus

1. The State of Bihar
2. Damini Devi W/o Late Raju Paswan R/o Village- Imli Tola Gulab Bag,
Ward No-37, P.S- Purnia Sadar, District- Purnia

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bhola Prasad, Advocate
For the Respondent/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 28-02-2023 Learned Counsel appearing for the appellant and

learned counsel appearing for the State are present and they are

heard.

The instant criminal appeal has been filed to enlarge
the appellant on bail, against the order dated 27.09.2022 passed
by the learned Special Judge SC/ST Act, Purnea in connection
with Special SC/ST Case No. 25 of 2022 arising out of Purnea
Sadar P.S. Case No. 389 of 2020 registered for the offences
punishable under Sections 365, Section 364, 302, 201/34 of the
Indian Penal Code and Section 3(2) (v) of SC/ST Act by which
the appellant's prayer for bail was rejected.



As per the prosecution, informant who is wife of the deceased has alleged that her husband went from his house but did not return. It is further alleged that few days ago co-accused Sundar Lal Uraon called on mobile of her husband and threatened to kill him.

The main submissions advanced by the learned counsel for the appellant are that the appellant has got one criminal antecedent in which he is on bail and during the investigation most of the witnesses upon which the trial court placed reliance while rejecting the prayer of the appellant, only supported the alleged incident but all of them did not reveal the name of this appellant being involved in the alleged occurrence and during investigation the name of the appellant came into light in the statement of co-accused Chhotu Ram and except this statement given before the police there is no any other material showing the appellant's involvement in the alleged crime and the victim's dead body was recovered in a decomposed condition and the identification of the dead body was also doubtful and there is no legal evidence against the appellant to connect him to the alleged crime and he has been languishing in jail since 24.06.2022.

Learned APP has opposed this appeal and submitted



that the order impugned rejecting the bail prayer of the appellant has been rightly passed and there is no merit in this appeal hence, the same is liable to be dismissed but learned APP has fairly accepted that except suspicion and confessional statement of co-accused namely, Chhotu Ram there is no any other material against the appellant.

Considering the aforesaid facts and mainly the facts that appellant is not named in the FIR and his name transpired in the alleged crime in the statement of co-accused Chhotu Ram as reflects from the paragraph no. 249 of the case diary and except the said statement there is no any cogent material to show the appellant's involvement in the alleged crime and during the course of argument learned APP has also not drawn the attention of this court to any direct evidence showing the appellant's involvement in the alleged crime, the appellant deserves to the privilege of bail. Accordingly, the order impugned rejecting the bail prayer of the appellant does not appear to be proper, hence it stands set aside and the appeal stands allowed and appellant is directed to be released on bail on furnishing of bail bond of Rs. 10,000/- with two sureties of like amount each to the satisfaction of learned Special Judge SC/ST Act, Purnea, in connection with Special SC/ST Case No.



25 of 2022 arising out of Purnea Sadar P.S. Case No. 389 of
2020.

(Shailendra Singh, J)

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