

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3619 of 2022

Arising Out of PS. Case No.-310 Year-2020 Thana- MALSALAMI District- Patna

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Gappu @ Gappu Mahto @ Amarjeet Mahto S/O Abhimanyu Kumar @
Mannu @ Mannu Mahto @ Abhimannu Kumar Resident of village-
Jamunapur, Gauraiya Sthan, P.S.- Malsalami District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Ranju Devi W/O Late Laxman Choudhary Resident of village- Jamunapur,
Gauraiya Sthan, P.S.- Malsalami District- Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Rudra Deo
For the Respondent/s	:	Mr. Usha Kumari 1
For the Opposite Party No.2	:	None

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 28-02-2023 Despite the valid service of notice, nobody present

on behalf of the Opposite Party. No. 2.

Heard Ld. counsel for the appellant and Ld. Special

Public Prosecutor for the State.

This criminal appeal has been filed to enlarge the

appellant on bail, impugning the order dated 08.08.2022,

passed by the Ld. Exclusive Special Court SC/ST Act, Patna

in connection with Malsalami P.S. Case No. 310 of 2020,

registered for the offences punishable under Sections 302

and 34 of the Indian Penal Code and Sections 3(2) (v)a

SC/ST Act, whereby bail has been denied to the appellant.



The prosecution case as emerging from the FIR is that on 11.12.2022 at 07:00 P.M., one Manish Kumar came to the house of the informant and informed him that her husband was lying in the way. Thereafter, informant went there and saw blood oozing from his neck. She alleged that appellant along with his associates committed murder of her husband by Chisel. Allegation of land dispute is also there.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that case is based only on suspicion. He also submits that in fact the case of the present appellant is better than that of the co-accused who has already been enlarged on bail by the Trial Court itself. He further submits that as per allegation in the FIR the co-accused Ramu Choudhary had land dispute with the deceased whereas, there is no prior dispute between the present appellant and the deceased. He also submits that investigation in this case is complete and charge-sheet has already been submitted.

He further submits that the appellant has been



languishing in jail since 22.05.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellant has no criminal antecedents.

It is also stated in paragraph no. 2 of the appeal that the appellant has not moved this Court earlier either for anticipatory bail or regular one.

However, Ld. Special Public Prosecutor for the State vehemently opposes the prayer of the appellant for bail.

Considering the aforesaid facts and circumstances, **the appeal is allowed**, setting aside the impugned order dated 08.08.2022, passed by Ld. Exclusive Special Court SC/ST Act, Patna, and directing the appellant to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Exclusive Special Court SC/ST Act, Patna in connection with Malsalami P.S. Case No. 310 of 2020, **after framing of charge, if not already framed** on the following conditions:

(i) The appellant will make himself available for



interrogation by a police officer/court as and when required.

(ii) The appellant will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The appellant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the trial court that the appellant has any criminal antecedents, the Ld. trial court shall cancel the bail bonds of the appellant after hearing him and getting satisfied that the appellant has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the trial court that statement regarding previous bail appeal is wrong, the Ld. trial court shall cancel the bail bonds of the appellant.



There should not be any unnecessary delay in farming of charge. If the other co-accused causes any delay, his bail bonds should be cancelled.

Ld. counsel for the appellant is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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