

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3624 of 2022

Arising Out of PS. Case No.-265 Year-2022 Thana- PHULPARAS District- Madhubani

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SANJAY KAMAT Son of Vipatti Kamat R/V- Menha, P.S- Phulparas, Dist-
madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Surendra Ram Son of JC Ram R/V- Mehna, P.s- Phulparas, Dist- Madhubani

... .. Respondent/s

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with

CRIMINAL APPEAL (SJ) No. 3717 of 2022

Arising Out of PS. Case No.-265 Year-2022 Thana- PHULPARAS District- Madhubani

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GANGA PRASAD KAMAT @ GANGA KAMAT Son of Late Rupī Kamat
Resident of Village - Mainaha, P.S.- Phulparas, District - Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar
2. Surendra Ram Son of Jeshi Ram Resident of Village - Mainaha, P.S.-
Phulparas, District - Madhubani.

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 3624 of 2022)

For the Appellant/s : Mr. Prakritita Sharma

For the Respondent/s : Mr. Binay Krishna

For the Opposite Party No.2 : None

(In CRIMINAL APPEAL (SJ) No. 3717 of 2022)

For the Appellant/s : Mr. Yogendra Kumar

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 appellants and Ld. APP



for the State.

This criminal appeal has been filed to enlarge the appellant on bail, impugning the order dated 02.09.2022, passed by the Ld. Additional Sessions Judge-I-cum-Spl. Judge, Madhubani in connection with Phulparas P.S. Case No. 265 of 2022, registered for the offences punishable under Sections 341, 323, 324, 307, 302, 427 and 34 of the Indian Penal Code and Sections 3 (1) (r) (s) of SC/ST Act and Sections 3 (2) (va) SC/ST Act, whereby bail has been denied to the appellant.

The prosecution story as emerges from the FIR is that on 04.06.2022 at 10.55 P.M., appellant and his associates armed with Tengari (axe), came at the house of the informant in drunken state and started abusing him, Rohit kamat having axe in his hand, assaulted Phul Kumari (brother's wife of the informant) and Ruchi Kumari (niece of the informant), due to which the niece of the informant died.

Ld. counsel for the appellants submits that the appellant are innocent and have falsely been implicated in



this case. Even as per the FIR, it is this co-accused Rohit Kamat who has assaulted the victim by axe (Tengari) causing her death. He further submits that the only allegation against the appellants are that they were with him and there is no allegation of assault on the part of these two appellants. He also submits that investigation in this case is complete and charge-sheet has already been submitted.

He further submits that the appellants have been languishing in jail since 26.07.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellant, namely, Ganga Pd. Kamat has earlier been made accused in one other case whereas, appellant, namely, Sanjay Kamat has no criminal antecedent.

It is also stated in paragraph no. 2 of the appeal that the appellants have 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 appellants for bail.



Considering the aforesaid facts and circumstances, **the appeal is allowed**, setting aside the impugned order dated 02.09.2022, passed by Ld. Additional Sessions Judge-I-cum-Spl. Judge, Madhubani, and directing the appellants to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Ld. Additional Sessions Judge-I-cum-Spl. Judge, Madhubani in connection with Phulparas P.S. Case No. 265 of 2022, **after framing of charge, if not already framed** on the following conditions:

(i) The appellants will make themselves available for interrogation by a police officer/court as and when required.

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

(iii) The appellants 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 appellants have criminal antecedents other than the disclosed one, Ld. trial court shall cancel the bail bonds of the appellants after hearing them and getting satisfied that the appellants have concealed their criminal antecedents despite their 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, Ld. trial court shall cancel the bail bonds of the appellants.

Ld. counsel for the appellants 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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