

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.3627 of 2022

Arising Out of PS. Case No.-95 Year-2021 Thana- BIBHUTIPUR District- Samastipur

Arvind Mahto @ Arvind Kumar Mahto @ Arbind Mahto S/o Baidhyanath
Mahto R/v- Kalyanpur South Samartha, P.S.- Bibhutipur, District- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Deepak Choudhary @ Bala Choudhary S/o Ramsogarath Choudhary R/v-
Kalyanpur North Samartha, P.S.- Bibhutipur, District- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Suneil Kumar Thakur
For the Respondent/s : Mr. Usha Kumari 1
For the Informant : Mr. Vishwa Ranjan Choudhary

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

3 28-02-2023 Heard Ld. counsel for the appellant, Ld. Special

Public Prosecutor for the State and Ld. Counsel for the

Informant/Respondent No. 2.

This criminal appeal has been filed to enlarge the
appellant on bail, impugning the order dated 08.09.2022,
passed by the Ld. Spl. Judge, SC/ST (PoA) Act, Samastipur,
in connection with Bibhutipur P.S. Case No. 95 of 2021,



registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code and Sections 3 (2) (va) SC/ST (PoA) Act, whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is that the dead body of the son of the informant was found hanging in the toddy shop of the informant. The informant alleged that due to love affair of his son with the daughter of the appellant, he was killed by this appellant along with other persons and the dead body was hanged.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that there is no eye witness to the alleged offence and case is based only on suspicion. He also submits that similarly situated co-accused, namely, Pritam Kumar has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 29.09.2022 passed in Cr. Appeal (SJ) No. 142 of 2022.

He further submits that the appellant has been languishing in jail since 11.08.2022.



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 moved this Court earlier for anticipatory bail vide Cr. APP (SJ) No. 4053 of 2021.

However, Ld. Special Public Prosecutor for the State and informant 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 08.09.2022, passed by Ld. Spl. Judge, SC/ST (PoA) Act, Samastipur, 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. Spl. Judge, SC/ST (PoA) Act, Samastipur in connection with Bibhutipur P.S. Case No. 95 of 2021, **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.

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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