

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3835 of 2022

Arising Out of PS. Case No.-23 Year-2021 Thana- BAUSI District- Araria

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MD MITTHU @ MD. ZAFAR EKBAL @ MD. ZAFAR MITTGHU Son of
Late Ishtiyaque Alam R/v- Mahsail, Ward No. 3, P.S.- Bounsi, District- Araria

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. BINOD RISHIDEO Son of Aghanu Rishideo R/v- Pachhiyari Jhiruwa, Ward
No. 13, P.S.- Simraha, District- Araria

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Anil Prasad Singh Mr. Abhijeet Gautam Mr. Vijay Kishore Bharti
For the Respondent/s	:	Mr. Binay Krishna Mr. Amarjeet Mr. Prabhat Kumar Singh Mr. Abhishek Kumar Mr. Madhav Jha Mr. Kanchan Jha

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 03-03-2023 Heard Ld. counsel for the appellant and Ld. APP for
the State.

This criminal appeal has been filed to enlarge the
appellant on bail, impugning the order dated 21.09.2022,
passed by the Ld. Court of 1st Additional Sessions Judge-
cum-Spl. Judge, Araria, in connection with Special (SC/ST)



Case No. 26 of 2021 arising out of Baunsi P.S. Case No. 23 of 2021, registered for the offences punishable under Sections 302, 201 and 34 of the Indian Penal Code read with Section 3(2)(v) of the SC/ST (PoA) Act, whereby bail has been denied to the appellant.

As per allegation, the wife of the informant was killed by one Neeraj Verma, who is an agent of Mahindra Show Room. Allegation of illicit relationship of his wife with the said Neeraj Verma 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 as per the confessional statement of main co-accused Md. Imran, the appellant participated in the commission of the murder of the victim of this case. However, there is no other incriminating material against the appellant. 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 12.09.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellant has earlier been made accused in



one other case.

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 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 21.09.2022, passed by Ld. Court of 1st Additional Sessions Judge-cum-Spl. Judge, Araria, 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. Court of 1st Additional Sessions Judge-cum-Spl. Judge, Araria in connection with Special (SC/ST) Case No. 26 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 criminal antecedents other than the disclosed one, 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, 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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