

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.444 of 2024**

Arising Out of PS. Case No.-42 Year-2023 Thana- TIKAPATTI District- Purnia

Mithilesh Kumar @ Mithlesh Mandal, aged about 28 years, Gender-Male,
S/O Bindeshwari Mandal, R/O Village- Simra, P.S. Tikapatti, Dist. Purnia.

... .. Appellant

Versus

1. The State of Bihar.
2. Bineeta Devi, W/O Mitthu Ram, R/O Village- Koshkipur, P.S. Tikapatti,
Dist. Purnia.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Bhola Prasad, Advocate
For the Respondent No.2:	:	None.
For the State	:	Mrs. Usha Kumari 1, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 02-05-2024 Heard learned counsel for the appellant and learned
Spl. P.P. for the State. However, learned counsel for the
respondent no. 2 is not present despite notice issued to the
respondent no. 2 through the Special P.P. SC/ST (POA) Act,
Purnea.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
‘SC/ST Act’) against the refusal for prayer of bail of the
appellant vide order dated 02.11.2023, passed by the learned
Special Judge (SC/ST) Act, Purnea, in connection with Tikapatti
P.S. Case No. 42 of 2023 registered for the offence punishable



under Section 302 of the I.P.C. Later on, charge sheet has been submitted under Sections 302, 120(B) of the I.P.C. and Sections 3(1)(r)(s) and 3(2)(v) of the SC/ST Act.

3. The prosecution case, in brief, on 17.04.2023 at 1.30 A.M., the informant saw that her husband was hanged towards Tatti by tiding with Dupatta. Thereafter, her husband has got down with the help of neighbours and found that there was bruise on the neck. The informant came to know that some unknown persons hanged the dead body in her veranda after killing him.

4. It is submitted by learned counsel for the appellant that the appellant is quite innocent and has falsely been implicated in the present case due to ulterior motive. It is further submitted that the appellant is not named in the F.I.R. It is submitted that in course of investigation, the informant in her re-statement before the police, has changed the version as alleged in the F.I.R. and has implicated the appellant and 2-3 other persons. The appellant has been made accused in the present case on the basis of his self confession made before the police in which he has admitted that he has assaulted the deceased. Except the confessional statement, there is nothing on the record to suggest the implication of the appellant in the



present case. There is no eye witness to the alleged occurrence. The appellant is in custody since 05.07.2023. The appellant has clean antecedent as stated in paragraph no. 3 of the memo of appeal. There is no castiest remark alleged against the petitioner. Hence, no offence under the SC/ST Act is made out against the appellant.

5. Learned Spl. P.P. for the State has opposed the prayer for bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 02.11.2023, passed by learned Special Judge SC/ST Act, Purnea in connection with Tikapatti P.S. Case No. 42 of 2023, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST Act, Purnea in connection with Tikapatti P.S. Case No. 42 of 2023.

(Chandra Prakash Singh, J)

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