

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.531 of 2024

Arising Out of PS. Case No.-301 Year-2023 Thana- ARWAL District- Jehanabad

Sarajuddin Darji @ Sarju Darji @ Saraju Darji SON OF Tajuddin Darji
Village -Malhi patti PS -Arwal District -Arwal

... .. Appellant/s

Versus

1. The State of Bihar
2. JAMUNA DAS SON OF LATE NARAYAN DAS Village -Malhi patti PS
-Arwal District -Arwal

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ramakant Sharma, Sr. Advocate Mr. Rakesh Kumar Sharma, Advocate
For the Respondent/s	:	Mr.Binay Krishna, SPP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 17-05-2024 Heard Mr. Ramakant Sharma, learned Senior counsel
for the appellant and learned Special Public Prosecutor for the
State. None appears on behalf of the informant in spite of valid
service of notice.

2. The instant appeal has been filed by the appellant
against the order dated 03.01.2024 passed by learned Additional
District Judge-1 cum Special Judge SC/ST Act, Jehanabad
whereby the prayer for bail of the appellant in connection with
Arwal P.S. Case No. 301 of 2023 under Sections 302, 504, 380
of the Indian Penal Code and Section 3/4 of Prevention of Witch
(DAAIN) Practices Act and Section 3(1)(r)(s), 3(2)(va) of
SC/ST (POA) Act was rejected.



3. The prosecution case, in short, is that on 07.06.2023, all the accused persons including the appellant abused the mother of the informant and called her *daain*. It is further alleged that when the informant went to his *sasural*, all the accused persons committed murder of his mother.

4. Learned senior counsel for the appellant submits that the appellant has falsely been implicated in the present case only on the basis of suspicion. The appellant is co-villager of the informant. Learned counsel further submits that there is no eye-witness to the alleged occurrence. There is a delay of 9 days in lodging the FIR. Learned counsel further submits that except suspicion, there is no any direct or indirect evidence against the appellant as also there is no previous enmity between the parties. There is no independent witness to the alleged occurrence rather the same are interested witnesses. The allegation against the appellant is general and omnibus in nature. Except suspicion, there is no iota of evidence against the appellant corroborating the alleged occurrence. Learned counsel for the appellant further submits that the appellant has not taken the caste name of the informant in public view, hence, no offence under the provisions of SC/ST Act is made out against them. The appellant has no intention to disgrace the image of



the informant in public view. The appellant is in custody since 20.09.2023 and has no criminal antecedent. Co-accused have been granted bail by this Bench vide order dated 04.04.2024 passed in Cr. Appeal (SJ) No. 5397 of 2023.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant, stating that during the investigation, witnesses have supported the prosecution version. Learned APP further submitted that in the post-mortem report, the cause of death is asphyxia due to strangulation and, submits that the nature of offence is heinous and, thus, the appellant does not deserve bail.

6. Considering the aforesaid facts and circumstances of the case and there being no specific allegation of any overt act against the appellant and the period of custody undergone by the appellant coupled with the fact that the appellant has no criminal antecedent, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 03.01.2024 passed by learned Additional District Judge-1 cum Special Judge SC/ST Act, Jehanabad, is hereby set aside.

7. Let the appellant, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court



below/concerned Court in connection with Arwal P.S. Case No. 301 of 2023, subject to the following conditions:

(i) One of the bailors shall be own/close member of the family of the appellant.

(ii) The appellant shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the appellant.

(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Rudra Prakash Mishra, J)

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