

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1450 of 2024

Arising Out of PS. Case No.-119 Year-2020 Thana- KHANPURA District- Samastipur

Vikash Kumar Sahni @ Vikash Kumar, Son of Sudin Sahni, Resident of
village- Shibaisingpur, P.S.- Khanpur, Distt.- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Sumitra Devi, Wife of Ram Chandra Ram, Resident of vill.- Shivaisingh,
P.S.- Khanpur, Distt.- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Mahendra Pratap, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 09-08-2024 Heard Mr. Mahendra Pratap, learned counsel
appearing on behalf of the appellant and learned Spl. PP for the
State. Respondent no.2 appears through her counsel Mr. Baban
Prasad Singh.

2. The present appeal under Sections 14(A) (2) of the
Scheduled Castes/Schedule Tribes (Prevention of Atrocities)
Act, (hereinafter referred to as the 'ST/SC Act') has been
preferred against the order dated 09.01.2024 passed by learned
Sessions Judge, SC/ST (POA) Act, Samastipur in connection
with Khanpur P.S. case no. 119 of 2020 registered for the



offences punishable under Sections 364/34 of the Indian Penal Code and Sections 3(1)(r)(s), 3 (2) (c) (va) of the SC/ST Act, later on, Section 302 of the Indian Penal Code was added, whereby and whereunder the prayer for grant of anticipatory bail of the appellant has been rejected.

3. Based upon the written report, the prosecution alleges that on 28.07.2020, the appellant along with all his family members and two unknown persons came to the house of the informant and persuaded her husband to purchase a boat, as there was a chance of flood. On persuasion of the appellant and others, the husband of the informant went along with them after taking Rs.19,000/- cash and mobile. It is further alleged that at 10.00 P.M. the accused persons came and put the boat near the house, but the husband of the informant did not return.

4. Learned Advocate for the appellant contended that there is no eye witness to the alleged occurrence, except the fact that the appellant along with his other family members had came to the house of the informant and thereafter they went to purchase the boat. The narrations made in the F.I.R. also does not suggest that it is the appellant and other accused persons, who have kidnapped and killed the husband of the informant. The informant herself stated that her husband had talked to her



at 8.00 P.M. and thereafter his phone got switched off. The post-mortem report suggest that the death of the deceased had occurred on account of asphyxia due to drowning and moreover no external or internal injury has been found on the body of the deceased.

5. Learned Advocate for the appellant also produced the copy of the order of the Court with respect to two of the accused persons, namely, Sudin Sahni and Bike Sahni @ Bike Kumar, whose Criminal Appeals, arising out of the regular bail, have been allowed vide order dated 30.06.2022 and 02.11.2023 passed in Cr. Appeal (SJ) No. 894 of 2021 and Cr. Appeal (SJ) No. 3270 of 2023.

6. On the other hand, leaned counsel appearing on behalf of State as well as respondent no.2 vehemently opposes the prayer of the appellant and submitted that it is the appellant and other co-accused persons, who took away the husband of the informant and thereafter his dead body was found. Suspicion has been raised about the complicity of the appellant in the present crime.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the entire case is based on suspicion inasmuch as the post-mortem report



suggests there is no external or internal injury over the body of the deceased. There is no eye witness to the alleged occurrence that the appellant was lastly seen around the place of occurrence, coupled with the fair antecedent of the appellant, this Court finds substance in the submission of the learned counsel for the appellant, the present appeal is allowed and the impugned order dated 09.01.2024 is hereby set aside.

8. Let the appellant, named above, in the event of his arrest or surrender within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned learned Sessions Judge, SC/ST (POA) Act, Samastipur in connection with Khanpur P.S. case no. 119 of 2020, subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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