

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2136 of 2023

Arising Out of PS. Case No.-320 Year-2021 Thana- SISWAN District- Siwan

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GOBIND SAH @ GOVINDA KUMAR SAH S/O BABAN SAH Resident of
Village- Gayaspur(Lewari), P.S.-Siswan, District-Siwan

... .. Appellant/s

Versus

THE STATE OF BIHAR Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Pandey
For the Respondent/s	:	Mrs. Usha Kumari 1
For the Respondent No.2:	:	Mr. Anil Chandra

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 24-01-2024 Heard learned counsel for the appellant, learned counsel
for the respondent no.2 and learned Special Public Prosecutor
for the State.

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 of prayer of anticipatory bail vide order dated 04.01.2023 passed by learned Additional Sessions Judge- 1st cum Special Judge, Siwan in connection with Siswan P.S. Case No.320 of 2021, registered under Sections 302, 34 of the Indian Penal Code and Section 3(1) (r) (s)/3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



3. The prosecution case, in short, is that the appellant and one co-accused Pintu Yadav called the informant's son and took him with them by motorcycle. The appellant informed the informant that his son has been killed and his dead body was thrown in a well.

4. It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case due to enmity. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. There is no specific overt act against the appellant. He submits that the appellant himself belongs to SC/ST category. Hence, no offence under SC/ST Act is made out against the appellant. He further submits that the post mortem report of the deceased has not supported the prosecution case. He further submits that viscera report has also not indicated that the victim has consumed poison. Appellant has no criminal antecedent as mentioned in para-3 of this memo of appeal.

5. Learned Spl. PP for the State as well as respondent no.2 opposed the prayer for bail. It is submitted by learned



counsel for the respondent no.2 that as per the FIR, there is specific allegation against the appellant to call the informant and took him away with him and thereafter his dead body was found.

6. Considering the facts and circumstances of the case as well as considering that the post-mortem report and viscera report of the deceased has not supported the prosecution case, the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge- 1st cum Special Judge, Siwan in connection with Siswan P.S. Case No.320 of 2021, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

7. Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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