

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2192 of 2023**

Arising Out of PS. Case No.-461 Year-2022 Thana- BELHAR District- Banka

Tuntun Pasi Son of Late Naresh Pasi R/O Village- Bara, P.S.- Belhar, District- Banka

... .. Appellant/s

Versus

1. The State of Bihar
2. Gulabi Pujhar @ Gulabi Khaira Son of Rambal Pujhar @ Rambal Khaira R/O Village- Bara, P.S.- Belhar, District- Banka

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ajay Mukherjee, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan
For the Respondent no.2	:	None

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

ORAL ORDER

6 14-03-2024 Heard learned counsel for the appellant and learned Special Public Prosecutor for the State. Learned counsel for the State submits that the respondent no.2 has been informed by the S.H.O. concerned but, even then, none has turned up on her behalf.

2. The instant appeal has been filed by the appellant against the order dated 24.02.2023 passed by the learned Additional Sessions Judge-I, Banka whereby the prayer for bail of the appellant in connection with Belhar P.S. Case No. 461 of 2022 under Sections 302, 201, 120(B), 34 of the I.P.C. and Section 3(2)(VA) of the SC/ST (Prevention



of Atrocities), Act was rejected.

3. The allegation against the appellate along with other co-accused persons is of killing the uncle of the Informant.

4. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. The appellant is not named in the F.I.R. and only on suspicion, the appellant has been arrested by the police and after arrest, it has been alleged that the head of the deceased and weapon used in the crime have been recovered. There is no eye-witness in this case. Nothing incriminating has been recovered from the conscious possession of the appellant. No T.I.P. has been conducted in this case and the confessional statement of the appellant before the police has no evidentiary value in the eye of law. The appellant was also not seen at the place of occurrence or along with the deceased at the time of occurrence. Charge-sheet has been submitted in this case. Charge has also been framed. He further submits that the petitioner has no concern with the recovered weapon (Hasuli). Learned



counsel for the appellant further submits that no offence under the provisions of SC/ST Act is made out against him as the appellant also belongs to scheduled caste. The appellant is in custody since 02.12.2022 and has four criminal antecedents.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant stating that the offence is very serious in nature and in para 7 & 8 of the case diary, the witnesses have supported the prosecution case. He further submits that on the basis of the confessional statement of the appellant, the head of the deceased and the weapon (Hasuli) used the crime as also sign of blood in cloth of the appellant have been recovered. F.S.L. report also supports the prosecution case.

6. Considering the aforesaid facts and circumstances of the case and taking into account that there is specific and direct allegation against the appellant, the charge has been framed as also there being criminal antecedents of the appellant, this Court is not inclined to



grant bail to the appellant.

7. Accordingly, the prayer for bail of the appellant, above named, is rejected with a direction to the court below to expedite the trial and conclude the same expeditiously preferably within a period of one year from today.

8. If the trial is not concluded within the aforesaid period of one year, the appellant will be at liberty to renew his prayer for bail before the court below which will be disposed of on its merit without being prejudiced by this order.

(Rudra Prakash Mishra, J)

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