

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2398 of 2023

Arising Out of PS. Case No.-158 Year-2022 Thana- SHANKARPUR District- Madhepura

JIVACHH KUMAR @ SOMDEV MANDAL @ GUJRA @ GUDRA SON
OF DOMI MAHTO RESIDENT OF VILLAGE- BARAMOTTAR, WARD
NO. 6 PS AND DISTT- MADHEPURA

... .. Appellant/s

Versus

1. The State of Bihar
2. BABLOO PASWAN SON OF LATE BADRI PASWAN RESIDENT OF
VILLAGE- BHARKHI, WARD NO. 23, PS AND DISTT- MADHEPURA

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Uday Chand Prasad, advc,
For the Respondent/s	:	Mr. Binay Krishna, SPP
For the Informant	:	None

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

ORAL ORDER

7 04-12-2024 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and perused the case
diary. None appears on behalf of the informant despite notice
being validly served.

2. The instant appeal has been filed by the appellant
against the order dated 04.02.2023 passed by learned Addl.
Sessions Judge, 1st, cum Special Judge, Madhepura whereby the
prayer for bail of the appellant in connection with Shankarpur
P.S. Case No. 158 of 2022 under Sections 302, 201, 392/34 of
the Indian Penal Code and Sections 3, 2(v) of SC/ST Act was
rejected.



3. It is a case of commission of murder of informant's brother, namely, Bishundeo Paswan. Motive behind the occurrence was robbery of new E-Rickshaw of which the deceased was a driver.

4. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. Appellant is not named in the F.I.R. The name of the appellant transpired in this case during investigation only on the basis of mobile location. No incriminating article has been recovered from the conscious possession of the appellant. Learned counsel further submitted that there is a recovery of e-Rickshaw of the deceased from the campus of one Arbind Choudhary on the basis of confessional statement of the co-accused Umesh Sahni. There is no eye-witness to the occurrence. Learned counsel for the appellant further submitted 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 him. The appellant is in custody since 19.09.2022 and has ten criminal antecedents.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant. Learned counsel further submitted that the name of the appellant has



transpired in this case on the basis of mobile location and further, in paragraph no. 72 of the case diary, the appellant has confessed his guilt and disclosed the manner in which he and other co-accused persons committed the murder of the deceased by strangulating his neck and the said fact is also supported by the post-mortem report as the doctor has opined the cause of death due to cardio respiratory failure due to asphyxia caused by strangulation. Learned SPP, therefore, prays that the appellant may not be released on bail.

6. Considering the aforesaid facts and circumstances of the case, the confessional statement of the appellant which further supported by the post-mortem report, this Court is not inclined to grant bail to the appellant, as such, the prayer for grant of bail is rejected.

7. The appeal stands disposed of.

8. Learned trial Court is directed to expedite the trial.

(Rudra Prakash Mishra, J)

Alok Verma/-

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