

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2692 of 2023

Arising Out of PS. Case No.-52 Year-2022 Thana- JAGDISHPUR District- Bhagalpur

Md Gabbar @ Junaid, Son of Late Md. Anish, Resident of Village- Movie
Tola Purani, P.S.- Jagdishpur, District- Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Archana Devi, Wife of Munnilal Rajak, Resident of Village- Puraini, P.S.-
Jagdishpur, District- Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N. K. Agrawal, Sr. Advocate Mr. Vikram Singh, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

8 10-05-2024 Heard Mr. N. K. Agrawal, learned senior counsel

appearing on behalf of the appellant, duly assisted by Mr.

Vikram Singh, learned counsel and the learned Spl. PP for the

State.

2. The present appeal under Section 14A of the
Scheduled Castes/Scheduled Tribes, Prevention of Atrocities
Act, (hereinafter referred to as 'SC/ST Act') has been preferred
against the order dated 15.03.2023 passed by the learned Special
Judge, SC/ST (POA) Act, Bhagalpur in connection with
Jagdishpur P.S. case no. 52 of 2022 registered for the offences
punishable under Sections 1302/120(a)/34 of the Indian Penal
Code and Sections 3(ii)(v) of the SC/ST Act, whereby the prayer
for grant of regular bail of the appellant has been rejected.



3. It is alleged that on 11.02.2022 at about 8.30 P.M. the informant received an information that her husband has been shot dead, upon which she went to the place of occurrence and found that her husband sustained fire-arm injury in his left temple. It is further alleged that one Md. Imtiyaz had illicit relation with her *Gotani*, which was being protested by the informant's husband and there was a dispute with regard to drainage and on account of that the co-accused Md. Imtiyaz along with 3-4 other miscreants committed murder of her husband.

4. Learned senior counsel appearing on behalf of the appellant submits that the appellant is not named in the F.I.R. and for the first time his name sprung up in the confessional statement of co-accused Md. Imtiyaz and the said Md. Imtiyaz has already been allowed bail by this Court in Cr. Misc. No. 31248 of 2022 vide order dated 11.01.2023, the copy of which has been produced as Annexure-2 to the application.

5. Referring to the aforementioned order dated 11.01.2023, further submission has been made that admittedly there is no eye witness to the alleged occurrence and the entire case is based upon the suspicion. All the more, the only material against the appellant is confessional statement of co-accused Md.



Imtiyaz and there is nothing which shows the complicity of the appellant in the alleged crime.

6. On the other hand, learned Spl. P.P. for the State opposes the bail application and submits that the appellant is said to be close to co-accused Md. Imtiyaz.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the name of the appellant transpired in the confessional statement of co-accused Md. Imtiyaz, who has already been allowed bail by this Court in Cr. Misc. No. 31248 of 2022 vide order dated 11.01.2023, the appellant bears fair antecedent and except the suspicion there is no material, let the appellant, named above, 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 Special Judge, SC/ST (POA) Act, Bhagalpur in connection with Jagdishpur P.S. case no. 52 of 2022, 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 physically 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.

(v) The court below shall verify the criminal antecedent of the appellant and in case, at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the appellant. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

8. Accordingly, the impugned order dated 15.03.2023 is hereby set aside and the present appeal stands allowed.

(Harish Kumar, J)

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