

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2470 of 2024

Arising Out of PS. Case No.-12 Year-2024 Thana- CHHAURADANO District- East
Champaran

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Nushal Hoda @ Nirodh S/O Safoullah Lah @ Sekh Safiullah R/V-Hiramani,
P.S. - Chhauradano, Dist- East Champaran

... .. Appellant/S

Versus

1. The State Of Bihar
2. Virat Ram S/O Bhola Ram R/V-Hiramani, P.S. - Chhauradano, Dist- East
Champaran

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kumar, Adv.
For the Respondent/s : Mr. Binay Krishna, Spl. PP

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

3 22-07-2024 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. This appeal has been preferred on behalf of the
appellant under Section 14 (A) (2) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, 1989 for setting
aside the order dated 02.03.2024 in connection with
Chhauradano P.S. Case No. 12 of 2024 registered for offence
punishable under Section 302 of the Indian Penal Code and
section 3 (2)(V)(A) of the SC/ST (POA) Act, whereby the
prayer for bail of the appellant has been rejected.

3. As per allegation, when the informant (father of the



deceased) went to take water from hand pipe, his son Nitish Kumar aged about 7-8 years also accompanied him, in the meantime, the informant went for urination and when returned he did not find his son. Then, the informant went to the house of Ojha for taking clue whereabouts of his son, meanwhile one Ranjan informed the informant that the dead body of his son was lying near the Boundary of Ram Chandra Sah. Accordingly, the FIR.

4. Learned counsel for the appellant submits that he is innocent and has been falsely implicated in the present case. Appellant is not named in the FIR rather the same has been lodged against unknown person. There is nothing in the case diary which shows the complicity of the appellant. He further submitted that the re-statement of the informant is contradictory to his FIR, in re-statement the informant named the appellant and alleged that this appellant and co-accused Rashid @ Owais have called his son from his house, which has come vide para-11 of the case diary.

5. On the other hand, the learned Special P.P. has opposed the prayer for bail and submitted that during investigation several independent witnesses have supported the prosecution case that this appellant along with other co-accused



Rashid @ Owais had taken the deceased with them and soonafter, the dead body of the informant's son was recovered, which has come vide paras- 39, 40 and 41 of the Case diary.

6. Considering the above mentioned facts and circumstances of the case, the appellant has clean antecedent and especially the fact that the re-statement of the informant as well as the statements of the witnesses which has come in paras- 39, 40 and 41 of the case diary are contradictory to the contents of the FIR, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 02.03.2024 arising out of Chhauradano P.S. Case No. 12 of 2024 is hereby set aside.

7. The appellant is directed to be enlarged on bail in connection with Chhauradano P.S. Case No. 12 of 2024 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Special Judge (SC/ST Act), East Champaran, subject to the condition that the appellant shall co-operate in the disposal of trial and make himself available as and when required by the Court, with a further condition that:-

(i) Appellant shall remain physically present as directed by the Court and on his absence on two consecutive



dates without without sufficient reason, his bail bonds shall be
cancelled by the Court below.

(Nawneet Kumar Pandey, J)

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