

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2571 of 2024

Arising Out of PS. Case No.-161 Year-2023 Thana- KHIRI MORE District- Patna

Sushil Kumar S/O Late Judagir Sao R/O Imamnagar, Distt-Patna, Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Geeta Devi W/O Late Subhash Paswan R/O Imamnagar, Distt-Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Soni Shrivastava, Adv
For the Respondent/s : Mr. Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 12-09-2024 Heard learned counsel for the appellant 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 against the rejection of prayer of bail of the appellant vide order dated 06.03.2024 passed by the learned Exclusive Special Judge, SC/ST Act, Patna in connection with Special Case No. 29/2024 (Serial No. 396/23) arising out of Khirimore (Imamganj) P.S. Case No. 161 of 2023 dated 24.10.2023 registered for the alleged offences punishable under Sections 302, 120B, 341, 323 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(2) (va) of the Scheduled Castes and Scheduled Tribes Act.



3. As per the prosecution case, on 24.10.2023 at about 10:00 P.M., the appellant came to the house of the informant and took the informant's husband away with himself to his house. Thereafter, at 10:15 P.M. the informant's neighbour Sujit Paswan came and informed her that someone had shot her husband in the house of the appellant. The informant reached the place of occurrence, she found her husband in senseless condition and blood started oozing out. Further, police came and brought the informant's husband to the hospital where he was declared dead. After the incident of the alleged occurrence, the accused persons assaulted the informant and her family members. It is suspected that the informant's husband was killed by the appellant and the co-accused persons.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. Learned counsel has further submitted that there is no casteist remark against the appellant hence no case is made out under section 3(2) (va)SC/ST Act. It is further submitted that no member of public was present at the relevant point of time of the incident. The charge sheet has already been filed. The appellant has no criminal antecedent as stated at para 3 of the bail petition. The appellant is in custody since 26.10.2023.



5. Learned counsel learned Spl. P.P. for the State has vehemently opposed the prayer of bail. It is further submitted that it is a case of last seen theory. The appellant took the deceased to his house at 10:00 P.M. and he was shot dead at 10:15 P.M. in the house of the appellant. The appellant and the deceased were last seen together and the time gap is very short which reveals that the appellant is responsible for the murder of the informant's husband. As per the post mortem report, the cause of death is due to shock and haemorrhage which is caused by firearm.

6. Considering the aforesaid facts and circumstances of the case as well as the specific allegation against the appellant, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Khirimore (Imamganj) P.S. Case No. 161 of 2023, pending in the Court of learned Exclusive Special Judge, SC/ST Act, Patna.

8. Accordingly, the appeal stands rejected.

(Chandra Prakash Singh, J)

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