

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2879 of 2024

Arising Out of PS. Case No.-37 Year-2023 Thana- BANDHUWA KURAWA District- Banka

Raja Paswan @ Nageshwar Pasavan S/o Nago Paswan @ Nageshwar Paswan
R/o Village- Ambatari, P.S- Bandhuwa Kuraba, Distt.- Banka.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arjun Prasad, Adv.

For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 28-06-2024 Heard Mr. Arjun Prasad, learned counsel for the
appellant and learned Spl. P.P. 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 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 31.05.2024 passed by the learned Additional Sessions Judge-I, Banka in connection with Bandhuwa Kurawa P.S. Case No. 37 of 2023 registered for the offences punishable under Sections 302 and 392/34 of the Indian Penal Code, Sections 25(1-b)a, 26, 35 and 27 of the Arms Act and Section 3(2)(V) of the SC/ST (PoA) Act.

3. The prosecution case based on the *fardbeyan* of the informant alleges that on 12.04.2023, the informant’s son went



to withdraw money from CSP but he did not return. Subsequently, the informant came to know that her son was gunned down by two unknown persons after looting his money.

4. The learned counsel for the appellant contended that from the FIR, it is evident that the same was instituted against unknown miscreants. However, during the course of investigation, some of the co-accused persons, namely, Afjal Ansari, Rahul Kumar and Praveen Kumar Choudhary were taken into custody and on whose confession, the name of the appellant sprung up. It is also contended that barring the confessional statement, there is no material suggesting complicity of the appellant. The learned counsel for the appellant drew the attention of this Court to the orders passed by different Benches of the Court, wherein co-accused, namely, Kundan Jha and Ramesh Kumar @ Natwar have been granted the privilege of bail, the copies of which have been produced as Annexures-2 and 3 to the instant appeal. It is next contended that, in fact, the informant is not an eyewitness to the alleged occurrence nor any suspicion has been raised. Moreover, no incriminating material has been recovered from the whereabouts of the appellant and his case is based on parity.

5. The learned counsel for the State opposed the



prayer for grant of bail.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that barring the confessional statement, there is no material, moreover, the other two co-accused persons having similar allegations, have been allowed the privilege of bail and the case of the appellant is based on parity, coupled with the fact that the appellant bears no criminal antecedent, let the appellant, above named, 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 Additional Sessions Judge-I, Banka in connection with Bandhuwa Kurawa P.S. Case No. 37 of 2023, subject to the condition that one of the bailors will be the close relative of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain 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.

7. In view of the aforesaid fact, the impugned order dated 31.05.2024 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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