

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2593 of 2022

Arising Out of PS. Case No.-106 Year-2021 Thana- KHAGARIA District- Khagaria

AHTASAMUL HAQUE Son of Shahabuddin Resident of village- Falka, P.S-
Falka, Dist- Katihar, Bihar, Mob No. 7631144778

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anil Kumar Saxena, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.PP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 02-08-2024 Heard learned Advocate appearing on behalf of the
petitioner and learned Special Public Prosecutor for the State.

2. The instant appeal is preferred against the order dated 22.02.2022 passed in Special ABA (SC/ST) No.10/2022, by Additional Sessions Judge, 1st-cum-Special Judge SC/ST Act, Khagari arising out of Khagaria (Mufassil) Case No.106 of 2021, registered for the offences punishable under Sections 302, 379 of IPC and 3(2)(V) of the SC/ST Act whereby and whereunder the prayer for anticipatory bail of the petitioner has been rejected.

3. The informant received an information on 06.02.2021 that a dead body is kept at Mufassil thana Khagaria. On the basis of the photograph sent on his mobile he identified the dead body of his son, who used to ply Bolero vehicle. It is



further alleged that his vehicle was hired by some persons and in the way he was killed by unknown criminals.

4. Learned Advocate for the appellant submitted that the FIR has been instituted against unknown miscreants, however, during the course of investigation co-accused Abid Hussain was apprehended and his confessional statement has been recorded before the police. The name of the appellant has surfaced on the confessional statement of co-accused; barring the confessional statement there is no material suggesting the complexity of the petitioner in the crime. Learned Advocate for the petitioner also contended that even in the confessional statement the allegation against the petitioner is of disposal of the robbed vehicle. It is next contended that co-accused Mohammad Zahid and Nasimuddin whose names were also transpired in the confessional statement, have approached before this Court in Cri. Appeal SJ No.3850 of 2021 and Cri. Appeal SJ No.3246 of 2021 respectively on being aggrieved by the rejection of their anticipatory bail. However, the learned Co-ordinate Bench of this Court has set aside the order negating the prayer for bail of the aforementioned appellants. The case of the appellant is identical to the co-accused persons whose appeals have been allowed by this court. It is lastly contended that the



petitioner bears fair antecedent.

5. On the other hand, learned Special Public Prosecutor for the State vehemently opposed the bail application and submits that there are incriminating material suggesting the complicity of the petitioner in the crime. The apprehended co-accused persons disclosed complicity of the petitioner and his role in the crime.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that save and accept the confessional statement there is no material available on record and the case of the appellant is based upon parity that other persons having identical allegations have been allowed their appeal, this Court finds substance in the present appeal, accordingly the order dated 22.02.2022 passed in Special ABA(SC/ST) No.10/2022, by Additional Sessions Judge, 1st-cum-Special Judge SC/ST Act, Khagaria is set aside. The criminal appeal stands allowed.

7. Let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the



like amount each to the satisfaction of the learned Additional Sessions Judge, Khagaria, in connection with Khagaria (Mufassil) P.S. Case No.106 of 2021, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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