

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2966 of 2024

Arising Out of PS. Case No.-335 Year-2023 Thana- MITHANPURA District- Muzaffarpur

1. Upendra Choudhary Son Of Late Nand Lal Prasad Village- Chakmaruf Ps- Belsar District- Vaishali
2. Shatrudhan Mahto Son Of Late Ravi Mahto Village- Athari, Ps- Runni Saidpur, Dist- Sitamarhi
3. Lilu Devi @ Nilam Devi @ Jailas Devi Wife Of Suresh Paswan Village- Manika Harikesh, Ps- Mushahari, Dist- Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Prakash Kumar Son of Yogendra Paswan Village- Bhagwanpur Dhadhiya, Ps- Bochaha, Dist- Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Madhukar Anand, Adv
For the Respondent/s : Mr. Sadanand Paswan, Spcl PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 29-08-2024 Heard learned counsel for the appellants 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 (hereinafter in short referred to as the SC/ST Act) against the refusal of prayer of bail vide order dated 01.06.2024 passed by the learned Special Judge, SC/ST Act, Muzaffarpur in connection with G.R. No. 25 of 2024 arising out of Mithanpura P.S. Case No. 335 of 2023, registered for the offence/s punishable u/s 302 read with section 34 of the Indian



Penal Code, u/s 3(1)(r)(s)/3(2) (Va) of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act.

3. As per the prosecution case, the daughter of the informant disclosed that the director of her hostel, namely, Badri Prasad Sinha was getting girls of the hostel involved in immoral act. When the informant went to the hostel for taking his daughter to his house and he found that his daughter was killed and hanged. The feet of the deceased was touching the bed and there was a sign of electrocution also. It is further alleged that the other staff of the hostel, namely, Upendra Choudhary, appellant no. 1, Shatrudhan Mahto, appellant no. 2 and Lilu Devi appellant no. 3 and the director of the hostel committed murder of his daughter on the disclosure of the said immoral act.

4. Learned counsel for the appellants has submitted that the appellants have falsely been implicated in this case due to ulterior motive. There is general and omnibus allegation against the appellants. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no particular caste name has been called by the appellants hence no case is made out under section SC/ST Act. As per the postmortem report, the cause of death is asphyxia as a result of antemortem hanging. The



appellants are not involved in the alleged crime rather they are only staff of the hostel. Similarly situated co-accused has already been granted bail by this court *vide* order dated 16.05.2024 passed in Cr. Appeal (SJ) No. 4279 of 2023. The appellants have no criminal antecedent as stated in para 3 of the bail petition. The appellant is in custody since 04.08.2023.

5. Learned counsel learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 has vehemently opposed the prayer of bail.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellants, the impugned order dated 01.06.2024 passed by the learned Special Judge, SC/ST Act, Muzaffarpur in connection with G.R. No. 25 of 2024 arising out of Mithanpura P.S. Case No. 335 of 2023, is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, are directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST Act, Muzaffarpur in connection with G.R. No. 25 of 2024 arising out of Mithanpura P.S. Case No. 335 of 2023, with



a condition:-

(i) The appellants are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the appellants is liable to be cancelled.

8. Accordingly, the appeal stands allowed.

(Chandra Prakash Singh, J)

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