

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3275 of 2022

Arising Out of PS. Case No.-389 Year-2020 Thana- PURNEA SADAR District- Purnia

Rohit Darbey @ Rohit Kumar Darbey @ Rahul Darbey, aged about 23 years (Male), S/O Dilip Darbey, Resident of Village- Tikapur, P.S.- Kasba, District- Purnea.

... .. Appellant

Versus

1. The State of Bihar.
2. Damini Devi, W/O Raju Paswan, Resident of Imli Tola, Gulab Bagh, Ward No- 37, P.S.- Sadar, District- Purnea.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Dr. Bidhu Ranjan, Advocate
For the Respondent No.2:	:	None.
For the State	:	Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 02-02-2024 Heard learned counsel for the appellant and learned Spl. P.P. for the State. However, learned counsel for the respondent no. 2 is not present despite notice served upon the respondent no. 2.

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 anticipatory bail of the appellant vide order dated 28.07.2022, passed by the learned Additional Sessions Judge-1-cum-Special Judge, SC/ST Act, Purnea in A.B.P. No. 55 of 2022/CIS No. 55 of 2022 in



connection with Sadar P.S. Case No. 389 of 2020 registered for the offences punishable under Sections 365, 364, 302, 201/34 of the I.P.C. and Sections 3(2)(v) of the SC/ST (POA) Act.

3. The prosecution case, in brief, is that the husband of the informant went out from his house on 22.10.2020 but did not return. After that, a few days back, the co-accused Sundar Lal Uraon had threatened to kill him, on phone.

4. It is submitted by learned counsel for the appellant that the appellant is quite innocent and has falsely been implicated in the present case due to ulterior motive. It is further submitted that the occurrence took place on 22.10.2020 and the F.I.R., was lodged on 23.10.2020 against the co-accused Sundar Lal Uraon and for such delay, no explanation has been given by the prosecution. The appellant is not named in the F.I.R. The name of the appellant has sprung up in the present case on the basis of the confessional statement of the co-accused Chhotu Ram. Except for the confessional statement of the co-accused Chhotu Ram, there is nothing on record to suggest the implication of the appellant in the present case. It is further submitted that in the postmortem report of the deceased, the doctor has found only ligature mark and except the same no any external or internal injury was found on the person of the



deceased and the postmortem was conducted on 02.11.2020 and time since death has been given 3 to 10 days. It is further submitted that neither the informant nor the witnesses disclosed the name of the appellant as a last seen with the deceased. It is further submitted that neither the dead body was recovered on the basis of the confessional statement nor any incriminating article has been recovered on the confession. No member of public was present at the relevant point of time of the alleged incident. The alleged occurrence has not taken place in a public view. Hence, no offence under the SC/ST Act is made out against the appellant. The appellant has clean antecedent as stated in paragraph no. 3 of the memo of appeal.

5. Learned Spl. P.P. for the State has opposed the prayer for anticipatory bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 28.07.2022, passed by learned Additional Sessions Judge-I-cum-Special Judge, SC/ST Act, Purnea in A.B.P. No. 55 of 2022/CIS No. 55 of 2022 in connection with Sadar P.S. Case No. 389 of 2020, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, in the event of his arrest or surrender before the learned court below



within a period of six weeks from today, be enlarged on anticipatory 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 Additional Sessions Judge-I-cum-Special Judge, SC/ST Act, Purnea in connection with Sadar P.S. Case No. 389 of 2020, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Chandra Prakash Singh, J)

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