

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3645 of 2023

Arising Out of PS. Case No.-94 Year-2022 Thana- MOTIPUR District- Muzaffarpur

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1. PAPPU KUMAR @ PAPPU RAY S/O RAMESHWAR RAY R/O VIL-LAGE- PAHARCHAK, P.O- JHINGAHA BIRJI, P.S- MOTIPUR, DISTT.- MUZAFFARPUR, PIN- 843111.
 2. ARJUN PATEL @ CHHEDI S/O CHATURI PATEL @ CHATURI RAY R/O VILLAGE- PAHARCHAK, P.O- JHINGAHA BIRJI, P.S- MOTIPUR, DISTT.- MUZAFFARPUR, PIN- 843111.

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. KABUTARI DEVI W/O LATE LAL MOHAN MANJHI R/O VILLAGE- PAHARCHAK, P.O- JHINGAHA BIRJI, P.S- MOTIPUR, DISTT.- MUZAFFARPUR, PIN- 843111.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Priyadarshi Matri Sharan
For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 5 26-11-2024 1. At the very outset, learned counsel for the appellants sub-mits that during pendency of this appeal, the appellant no. 2 / Arjun Patel @ Chhedi has died. As such, this appeal has become infructuous with respect to the appellant no. 2.
2. Accordingly, the appeal stands dismissed as infructuous with respect to the appellant no. 2.
3. Heard the parties.
4. The appellant no. 1 apprehend his arrest in connection with Motipur P.S. Case No. 94 of 2022 registered for the offence under Section 147, 149, 341, 323, 307, 302 of the IPC



and Section 3 (ii)(v) of the SC/ST Act and being aggrieved by the order dated 28.02.2023 passed in A.B.P. No. 175 of 2023 by learned Additional District and Sessions Judge I – cum- Special Court of SC / ST (POA) Act, Muzaffarpur preferred this appeal for grant of anticipatory bail.

5. As per the prosecution case the informant has alleged that on 06.03.2022 in the evening she got the information that her husband - Lal Mohan Manjhi has killed one Bachha Kishore Dubey of the same village and in retaliation about 200 villagers brutally assaulted the husband of the informant killing him on the spot.

6. Learned counsel for the appellants submits that the appellant no. 1 is not named in the first information report and there is general and omnibus allegation against 200 villagers. The Police after investigation recorded the statement of the son of the deceased, who has stated that he heard the rumor that the appellants and other five persons were involved in the killing of his father. Learned counsel submits that the statement of the deceased's son was hearsay and he was not the eye witness. Learned counsel further submits that on the basis of investigation charge sheet has been submitted against two accused persons Ganesh Sahni and Vidynand Rai @ Dhorai Rai, who are



not the appellants here and they have been granted regular bail by a Co-ordinate Bench of this Court in Cr. App. (SJ) No. 2727 of 2022.

7. Learned counsel for the State submits that though the allegation against the appellant no. 1 is general and omnibus in nature along with 200 unknown persons and they are not named in the F.I.R., however, during investigation name of six persons transpired out of which Police has submitted charge -sheet against two accused persons and investigation against the appellants and others is pending.

8. No one appears for the respondent no. 2 despite notice having been given by learned counsel for the State.

9. Regard being had to the submission made by the parties, taking into consideration the fact that the appellant no. 1 is not named in the F.I.R., the allegation in the F.I.R. is against 200 unknown persons and the statement of the deceased's son recorded during the course of investigation is based upon hear say, as such, I am inclined to grant anticipatory bail to the appellant no. 1.

10. Accordingly, the order dated 28.02.2023 passed in A.B.P. No. 175 of 2023 arising out of Motipur P.S. Case No. 94 of 2022 passed by Additional District & Sessions Judge I-cum-



Special Court of SC/ST (POA) Act, Muzaffarpur is hereby set aside.

11. Let the appellant no. 1, above named, be released on anticipatory bail in the event of arrest or surrender before the court below within a period of four weeks from today on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Spl. Judge SC / ST Act, Muzaffarpur in connection with Motipur P.S. Case No. 94 of 2022 subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anil Kumar Sinha, J)

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