

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3715 of 2023

Arising Out of PS. Case No.-27 Year-2023 Thana- SC/ST District- Madhubani

Md. Saleheen @ Phul Babu Son Of Ehsanul Haque Village- Bardaha Ps- Bisfi
Dist- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Tetari Devi wife of Hit Lal Saday Village- Chhorihaya Ps- Bisfi Dist-
Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Subhash Kumar Jha
For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 11-01-2024 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. Learned Special Public Prosecutor for the State has informed that in compliance of the order dated 23.08.2023, he has informed the informant/complainant but none is present on his/her behalf.

3. This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, (hereinafter in short referred to as the ‘SC/ST Act’) against the refusal of prayer for bail vide order dated 23.06.2023, passed by learned Additional Sessions Judge-1st -cum-Special Judge, Madhubani in connection with SC/ST P.S. Case No. 27 of 2023, registered under Sections 420, 409, 323,



354(B), 504, 506/34 of the IPC and Sections 3(i) (r) (s)/ 3 (2) (va) of SC/ST Act.

4. Prosecution case is that the appellant received Rs. 12 lakhs under Nal Jal Yojana but he did not complete the work, as such, he misappropriated the government amount.

5. It is submitted by learned counsel for the appellant that the appellant is innocent and has been falsely implicated in this case. He submits that the appellant is the husband of the Ex-Mukhiya and there is no specific overt act against him. He submits that after investigation police has submitted the final form against the Mukhiya (wife of the appellant). He submits that occurrence took place on 16.08.2022 but present complaint petition has been filed on 31.01.2023 after about five months. He further submits that appellant has no criminal antecedent as stated in para-3 of this appeal.

6. However, learned Special P.P. for the state opposes the prayer for bail submits that the appellant is the main accused in this case.

7. Considering the facts and circumstances of the case and the nature of offence, I am not inclined to enlarge the appellant on bail. Accordingly, his prayer for anticipatory bail is rejected in connection with SC/ST P.S. Case No. 27 of 2023.



8. However, if the appellant surrenders before the learned court below within a period of six weeks from today and prays for regular bail, the same shall be considered by the learned court below on the same day without being prejudiced by this order considering the fact that the appellant has no criminal antecedent.

9. Accordingly, the impugned order is set aside and the appeal is allowed.

(Anjani Kumar Sharan, J)

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