

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4267 of 2024

Arising Out of PS. Case No.-172 Year-2024 Thana- MAIRWAN District- Siwan

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Mukesh Kumar Pandey Son of Suresh Kumar Pandey Resident of Village -
Belsui, P.S. - Darauli, District - Siwan

... .. Appellant/s

Versus

1. The State of Bihar
2. Vishal Kumar Gond Son of Umesh Gond Resident of Village- Mudiyari, P.S.
- Mairwan, District - Siwan

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Anjani Parashar, Adv.
For the Respondent/s : Mr.Binay Krishna, SPP

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

3 19-11-2024 Heard learned counsel for the appellant, learned

Special Public Prosecutor for the State and learned counsel for

the informant. Perused the case diary.

2. The instant appeal has been filed by the appellant
against the order dated 29.07.2024 passed by learned 1st
Additional Sessions Judge-cum-Special Judge, Siwan whereby
the prayer for bail of the appellant in connection with Mairwan
Case No. 172 of 2024 under Sections 302, 120(B) & 201 of the
Indian Penal Code and Section 3(2)(v) of the SC/ST Act, was
rejected.

3. As per prosecution case, the accusation against the
appellant is of calling the brother of the Informant from his
house along with co-accused and killing him and hiding his



body in the bushes at the bank of Jharhi river.

4. Learned counsel for the appellant submits that the appellant is innocent and has committed no offence as alleged in the F.I.R. and has falsely been implicated in the present case merely on the basis of suspicion. Except suspicion, there is no concrete evidence which connects the appellant with the alleged occurrence. The appellant is a government teacher. He further submits that though as per F.I.R., it appears that the deceased was brutally killed but, from the postmortem report, no external injury has been found on the body of the deceased rather apprehension of intake of poison has been raised. From perusal of the F.I.R. itself, it appears that the dead body of the deceased was recovered on the basis of the disclosures made by the co-accused Santu Singh. The F.I.R. has been lodged in this case after 24 hours of the time of occurrence without there being any plausible explanation for such delay. Learned counsel for the appellant further submits that on the day of occurrence, the appellant was outside from the State of Bihar for appearance of his wife in the examination which was scheduled to be held on 06.06.2024. The postmortem report also contradicts the narration floated by the Informant in the F.I.R. The appellant has no concern with the alleged occurrence or with the co-accused



persons. The appellant is in custody since 10.06.2024 and has no criminal antecedent.

5. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the appellant.

6. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 29.07.2024 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Siwan is hereby set aside.

7. The appeal stands allowed.

8. Let the appellant, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Mairwan Case No. 172 of 2024, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the appellant.

(ii) The appellant shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the



Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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