

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4892 of 2023

Arising Out of PS. Case No.-225 Year-2023 Thana- SIMRI BAKHTIYARPUR District-
Saharsa

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GULSHAN KUMAR Son of Arvind Yadav R/o vill - Sakra Paharpur
Navtoliya Chikaniyan, ward no. 6, P.S. - Simri Bakhtiyarpur, (Balwahat O.P),
Distt. - Saharsa

... .. Appellant/s

Versus

1. The State of Bihar BIhar
2. Sito Sharma Son of Lalo Sharma R/o vill - Sakra Paharpur Navtoliya ward
no. 9, P.S. - Simri Bakhtiyarpur (Balwa Hat O.P), Distt. - Saharsa

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Amarnath Jha
For the Respondent/s : Mr.Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

3 18-01-2024 Heard learned counsel for the appellants, learned

counsel for the informant and learned Special Public Prosecutor

for the State. Perused the case diary.

2. The instant appeal has been filed by the appellants
against the order dated 14.09.2023 passed by learned Additional
Sessions Judge 1st -cum-Special Judge SC/ST (Prevention of
Atrocities) Act whereby the prayer for bail of the appellant in
connection with Bakhtiyarpur (Balwahat O.P.) P.S. Case No.
225 of 2023 under Sections 302, 201, 120(B) of the Indian
Penal Code and section 3(i)(r)(s) of SC/ST Act was rejected.

3. As per allegation in the FIR, there was love affair
between son of the informant, namely, Sachin Sharma (since



deceased) and daughter of co-accused Mukesh Yadav and they fled away to Delhi. After five days, police brought the girl from Delhi and handed over to her parents. It is further alleged that on 1.5.2023, FIR named accused persons including the appellant in conspiracy, called the son of the informant and killed him and thereafter, they threw his dead body under Bhagdeva bridge. On 4.5.2023 local Choukidar identified the dead body of of informant's son.

4. It is submitted by learned counsel for the appellant that appellant has been falsely implicated in this case. There is delay of three days in lodging the FIR. No one is the eye witness of the alleged occurrence. Only on the basis of suspicion, the name of the petitioner has been dragged in the present case. General and omnibus allegation is levelled against the appellant. During investigation, no consistent evidence has come against the petitioner to show his complicity in the present case. He has not taken the caste name of the informant in public view. No offence is made out under the provisions of the SC/ST Act against him. Similarly situated other accused person has already been enlarged on bail by this Court vide order dated 12.01.2024 passed in Cr. Misc. No. 4866 of 2023. Appellant is languishing in judicial custody since 16.5.2023.



5. The appeal for bail is opposed by learned Spl. P.P. for the State and learned counsel for the informant .

6. Having heard learned counsel for the parties and taking into consideration that there is general and omnibus allegation against the appellant, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 14.09.2023 is hereby set aside.

The appellants are directed to be enlarged on bail in connection with Bakhtiyarpur (Balwahat O.P.) P.S. Case No. 225 of 2023 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge 1st-cum-Special Judge SC/ST (Prevention of Atrocities) Act, Saharsa.

(Sunil Kumar Panwar, J)

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