

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4948 of 2023

Arising Out of PS. Case No.-286 Year-2021 Thana- KONCH District- Gaya

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SUJIT KUMAR @ SUJIT KUMAR DAS SON OF INDRADEV DAS
RESIDENT OF VILLAGE- KONCH NEAR MIDDLE SCHOOL, PS-
KONCH, DISTT- GAYA

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. BEBY DEVI WIFE OF LATE MRITUNJAY DAS RESIDENT OF
VILLAGE- KONCH DIH, PS- KONCH, DISTT- GAYA

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Birendra Kumar
For the Respondent/s : Mr.Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 30-01-2024 Heard the parties.

2. The present appeal has been filed against the order dated 13.09.2023 passed by learned Special Judge SC/ST (POA) Act, Gaya whereby the prayer for bail of the appellant in connection with Konch P.S. Case No. 286 of 2021 corresponding to Special SC/ST (POA) 1327 of 2021 for the offence punishable under Sections 302, 120(B), 34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2) (v) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act was rejected.

3. As per prosecution case, the informant's husband is said to have been shot dead under conspiracy and his dead body



was found in a field. The informant lodged the FIR against five named accused persons.

4. Learned counsel for the appellant submits that appellant is not named in the FIR and his name has been surfaced in this case on the basis of call detail report and mobile location of the appellant and except the aforesaid material, there is nothing on record to connect the present appellant with the alleged occurrence. He further submits that appellant is innocent and has not committed any offence as alleged in the FIR and he has falsely been implicated in this case on the basis of suspicion. He further submits that there is no eye witness to the alleged occurrence. He further submits that the appellant belongs to SC community, hence no case is made under Section SC/ST Act. Appellant is in custody since 04.08.2023 and bears no criminal antecedent. He further submits that charge-sheet has been submitted against the appellant and there is no likelihood of tampering with the prosecution evidence. He further submits that FIR named accused persons, namely, Mantu Paswan and Ram Naresh Paswan @ Naresh Paswan have already been granted anticipatory bail by co-ordinate Bench of this Court vide Cr. Appeal (SJ) No. 2103 of 2022 and Cr. Appeal (SJ) No. 867 of 2022 respectively and case of present appellant stands on



better footing as appellant is not named in the FIR.

5. Learned Special Public Prosecutor for the State vehemently opposed the prayer of bail of the appellant.

6. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, period of custody, the appellant is not named in the FIR, charge-sheet has been submitted against the appellant and there is no likelihood of tampering with the prosecution evidence, co-accused has already been granted bail, argument advanced on behalf of both sides and also taking into consideration the material available on record, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated 13.09.2023 passed by learned Special Judge SC/ST (POA) Act, Gaya in connection with Konch P.S. Case No. 286 of 2021 is set aside.

7. The appellant is directed to be enlarged on bail in connection with Konch P.S. Case No. 286 of 2021 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge SC/ST, Gaya, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the



affidavit in the instant appeal.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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