

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5000 of 2023

Arising Out of PS. Case No.-1398 Year-2022 Thana- BIHTA District- Patna

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Bittu Kumar @ Sudhir Kumar S/O Gopal Ray@Awadhesh Rai@Gopal Prasad@Audhesh Kumar Rai Resident Of Village-Sabajpura, Ps-Dulhin Bazar, District-Patna, Presentaly Residing At Village-Neora Dera, Ps-Neora O.P. (Bihta), District-Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Ravindra Paswan S/O Late Deo Prasad Paswan R/O Village-Sabajpura, Ps-Dulhin Bazar, District-Patna, Presently Residing At Vill-Neora Dera, Ps-Neora O.P.(Bihta), District-Patna

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Ashok Kumar Sinha, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, SPP
		Mr. Virendra Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 21-03-2024 Heard learned counsel for the appellant, learned Special Public Prosecutor for the State and learned counsel for the informant/O.P. No.2.

2. The instant appeal has been filed by the appellant against the order dated 26.08.2023 passed by learned Exclusive Special Judge, (SC/ST Act), Patna whereby the prayer for bail of the appellant in connection with Serial Case No. 420 of 2022 arising out of Bihta (Neora P.O.) P.S. Case No. 1398 of 2022 under Sections 27 of the Arms Act and Sections 3(2)(v) of the SC/ST (Prevention of Atrocities) Act, was rejected.



3. The allegation against the accused including the appellant is of being involved in committing murder of the son of the Informant namely Rohit Kumar and throwing the dead body behind the boundary southern from Chiriyatar Mushahari.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. There is no eye-witness to the occurrence. Nothing has been recovered from the conscious possession of the appellant. There is also not specific and direct allegation of any overt act against the appellant rather the same is general and omnibus in nature. Learned counsel for the appellant further submits that in the facts and circumstances of the case, no offence under the provisions of SC/ST Act is made out against him. The appellant is in custody since 26.04.2023 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 stating that the charge-sheet witness Nilu Kumari has supported the prosecution case.

6. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the appellant as also the appellant having no criminal antecedent, this Court is



inclined to allow this appeal. Accordingly, the appeal is allowed and order dated dated 26.08.2023 passed by learned Exclusive Special Judge, SC/ST Act, is hereby set aside.

7. Let the appellant, abovenamed, be released on bail after framing of charge, if not already framed, 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 Serial Case No. 420 of 2022 arising out of Bihta (Neora P.O.) P.S. Case No. 1398 of 2022.

(Rudra Prakash Mishra, J)

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