

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5371 of 2023

Arising Out of PS. Case No.-470 Year-2023 Thana- KOILWAR District- Bhojpur

BHAGAT RAY SON OF MANDEV RAY R/O VILLAGE- MANDAH, KAMAL TOLA, P.S.- BIHTA, DISTRICT- PATNA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. DHARMENDRA PASWAN SON OF JAGDISH PASWAN R/O VILLAGE- SURNADHA WARD NO.11, P.S.- KOILWAR, DISTRICT- BHOJPUR

... .. Respondent/s

Appearance :

For the Appellant	:	Mr. Upendra Kumar, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.PP
For Respondent No. 2	:	Mr. Manoj Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 12-09-2024 Heard learned counsels for the parties.

2. This appeal has been filed for setting aside order dated 27.09.2023, passed in a case registered for the offence punishable under Sections 341, 323, 302 and 34 of the Indian Penal Code and Sections 3(i)(r) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellant has been rejected.

3. As per the prosecution case, 12 F.I.R. named accused persons, including this appellant, assaulted brother of informant with fist and slap and thereafter, drowned brother of informant in river as a result of which brother of informant died.



4. It is submitted by learned counsel appearing on behalf of the appellant that appellant is innocent and has falsely been implicated in this case. Informant is not an eye witness of the occurrence and merely on suspicion, appellant, along with other accused person, has been made an accused in this case. As a matter of fact, the deceased was a habitual drinker and he got himself drowned in the river. From bare perusal of the F.I.R. it is apparent that there is no allegation of abuse by caste name against this appellant and as such, no case under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against this appellant. Appellant claims clean antecedents.

5. On the other hand, learned S.P.P. appearing on behalf of the State and learned counsel appearing on behalf of the informant/Respondent No. 2 have vehemently opposed the prayer for grant of bail to this appellant.

6. Considering the aforesaid facts and circumstances of the case, this appeal is allowed and the impugned order dated 27.09.2023 passed by the Court of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara, in connection with A.B.P. No. 2561 of 2023 is hereby set aside with respect to this appellant only.



7. Accordingly, let the appellant, named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara, in connection with Koelwar P.S. Case No. 470 of 2023.

(Prabhat Kumar Singh, J)

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