

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5372 of 2023

Arising Out of PS. Case No.-255 Year-2023 Thana- MOTIPUR District- Muzaffarpur

Jhunnu Thakur @ Rajeev Kumar Thakur @ Rajeev Thakur S/O Late Mahesh
Thakur Village- Morsandi, P.S. Motipur, District Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Ranjana Bharti W/O Sandesh Kumar Village- Morsandi, P.S. Motipur,
District - Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL ORDER

3 16-04-2024 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and learned counsel for
the informant.

2. The instant appeal has been filed by the appellant
against the order dated 31.10.2023 passed by learned Special
Judge SC/ST (POA) Act, Muzaffarpur whereby the prayer for
bail of the appellant in connection with Motipur P.S. Case No.
255 of 2023 under Sections 302 / 34 of the IPC and Section 3(1)
(v) of the SC/ST Act was rejected.

3. The prosecution case, in short, is that Jhunnu
Thakur, Sumit Kumar @ Tutu, Sanjay Bhagat, Shivchandra
Bhagat had taken Rs. 2,50,000/- (twenty five lakh) from



informant's husband to register the land. On being asked to register the land, on 12.08.2023, on call accused person along with other associates called informant's husband to a deserted place and told him when the land was to be registered and brutally assaulted him on the head, informant's husband was given treatment. For this, informant's husband was admitted to Medico Hospital, Zero Mile, Muzaffarpur, where informant's husband died during treatment.

4. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case due to local village politics at the instance of person inimical to the appellant. He further submits that the appellant has not taken the caste name of the informant in public view. Hence, no offence under the provisions of SC/ST Act is made out against him. He next submits that the appellant is in custody since 30.08.2023.

5. On perusal of the FIR, case diary alongwith post mortem report and impugned order dated 31.10.2023, it appears that on the basis of written report informant registered FIR against four accused persons including the present petitioner. There is no eye witness to the alleged occurrence except confessional statement of co-accused persons. Nothing has been recovered from the possession of the petitioner. On perusal of



the post mortem report, it appears that the deceased died due to hemorrhage and shock due to fire arm injury.

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

7. 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.

8. Accordingly, the appeal is allowed and order dated 31.10.2023 passed by learned Special Judge SC/ST (POA) Act, is hereby set aside.

9. Let the appellant 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 Motipur P.S. Case No. 255 of 2023.

(Ramesh Chand Malviya, J)

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