

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5412 of 2023

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

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MUKESH YADAV SON OF KEDAR YADAV R/O VILLAGE- SAKRA
PAHARPUR, P.S.- BAKHTIARPUR 90.P. BALWAHAT), DIST.-
SAHARSA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR PATNA
2. SITO SHARMA SONOF LALO SHARMA R/O VILLAGE- SAKRA
PAHARPUR, P.S.- BAKHTIARPUR (O.P. BALWAHAT), DIST.-
SAHARSA

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ashok Kumar
For the Resp. No. 2	:	Mr. Madhav Jha
		Mr. Nishant Choudhary
For the Respondent/s	:	Mr.Sadanand Paswan

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

5 29-08-2024 Heard learned counsel for the appellant and learned

counsel for the respondent no. 2 as well as learned Special

Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the rejection of prayer for bail vide
order dated 14.09.2023 passed by the learned Additional
Sessions Judge 1st cum Special Judge, SC/ST (POA) Act,
Saharsa in connection with Bakhtiarpur (Balwahat O.P.) P.S.
Case No. 225 of 2023 dated 04.05.2023 registered for the



offence/s punishable u/ss 302, 201, 120B of the Indian Penal Code and 3(1) (da), 3(1)(dh) of the SC/ST (POA) Act.

3. As per the prosecution case, it is alleged that there was love affair between the son of the informant, namely, Sachin Sharma and the daughter of the appellant 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 01.05.2023, the FIR named accused persons including the appellant called the son of the informant under conspiracy and killed him and thereafter, they threw his dead body under Bhagdeva bridge. On 04.05.2023, local Chowkidar identified the dead body as of informant's son.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the alleged incident hence no case is made out under section SC/ST Act. There is no eyewitness to the alleged occurrence. There is general and omnibus allegation against the appellant. There is nothing against the appellant except confession. Similarly situated co-



accused has already been granted bail by the Co-ordinate Bench this Court vide order dated 18.01.2024 passed in Cr. Appeal (SJ) No. 4892 of 2023. The appellant has no criminal antecedent as stated in para 3 of the bail petition. The appellant is in custody since 20.06.2023.

5. Learned counsel for the respondent no. 2 as well as learned Spl. P.P. for the State has vehemently opposed the bail petition of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 14.09.2023 passed by the learned Additional Sessions Judge 1st cum Special Judge, SC/ST (POA) Act, Saharsa in connection with Bakhtiarpur (Balwahat O.P.) P.S. Case No. 225 of 2023, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge 1st cum Special Judge, SC/ST (POA) Act, Saharsa in connection with Bakhtiarpur (Balwahat O.P.) P.S. Case No. 225 of 2023. with the condition/s:-



(i) The appellant is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellants are liable to be cancelled.

(Chandra Prakash Singh, J)

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