

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5494 of 2023

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

Sanjay Bhagat, Aged about 26 years, Male, Son Of Ramishwar Bhagat,
Resident Of Village Kalyanpur (K.Pur) Harauna, P.S. - Motipur, District -
Muzaffarpur

... .. Appellant/s

Versus

1. The State Of Bihar
2. Ranjana Bharti, Female, Wife Of Sandesh Kumar, Resident Of Village -
Morsandi, P.S. - Motipur, District - Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Manoj Kumar, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

3 18-04-2024 Despite the notice has been served, no one appears on
behalf of the opposite party no.2 to assist this Court.

2. Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

3. The instant appeal has been filed by the appellant
against the order dated 31.10.2023 passed by learned Special
Court, 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 Indian Penal Code, Section
27 of the Arms Act and Sections 3(1)(v) of SC/ST (POA) Act was
rejected.

4. The prosecution case, in short, is that accused



Jhunnu Thakur, Sumit Kumar @ Tutu, Sanjay Bhagat (appellant) and Shivchandra Bhagat had taken Rs. 25 lakhs from the informant's husband to register the land. On being asked to register the land, on 12.08.2023, by phone accused persons along with other associates called informant's husband to a deserted place and asked him when the land was to be registered and brutally opened fire on his head. For treatment, informant's husband was admitted to Medico Hospital, Zero Mile, Muzaffarpur where he died during course of treatment.

5. It is submitted by learned counsel for the appellant that appellant is innocent and has committed no offence. He has been falsely implicated in this case due to dirty village politics. There is no eye witness of the alleged occurrence. He is not the owner of the alleged mobile number from which the deceased was called. He has not taken the caste name of the informant in public view. Hence, no offence is made out under the provisions of the SC/ST Act against him. The appellant has got no criminal antecedent. Similarly situated co-accused namely, Jhunnu Thakur @ Rajeev Kumar Thakur has already been granted bail by this Court vide order dated 16.04.2024 passed in Cr. Appeal (S.J.) No. 5372 of 2023. Moreover, he is languishing in judicial custody since 15.08.2023.

6. The appeal for bail is opposed by learned Spl. P.P. for



the State.

7. From perusal of the F.I.R., case diary along with postmortem report and impugned order dated 31.10.2023, it appears that on the basis of written report of informant F.I.R. registered against four accused persons including the present appellant. There is general and omnibus allegation made against all the accused persons including the appellant. There is no eye witness of the alleged occurrence and merely on suspicion the appellant was made accused in the present case. Neither the appellant was arrested from the place of occurrence nor any specific allegation of overt act has been made against him.

8. Considering the facts and circumstances of the case and the period of custody of the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 31.10.2023 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 the learned Special Court, SC & ST (POA) Act, Muzaffarpur in connection with Motipur P.S. Case No. 255 of 2023.

(Ramesh Chand Malviya, J)

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