

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5490 of 2023

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

Shivchandra Bhagat Son Of Bhaguni Bhagat Resident Of Village - Kalyanpur
(K.Pur) Harauna, P.S. - Motipur, District - Muzaffarpur

... .. Appellant/s

Versus

1. The State Of Bihar
2. Ranjana Bharti 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, Special P.P.

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

ORAL ORDER

3 12-07-2024 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, Section 27 of
the Arms Act 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. 25,00000/- (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 15.08.2023. He next submits that similarly situated co-appellant have already been granted bail by a Co-ordinate Bench of this Court passed in Cr. Appeal (SJ) Nos.5372 of 2023 and 5494 of 2023.

5. On perusal of the FIR 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 appellant. 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 appellant and the deceased died due to haemorrhage 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 learned Special Court SC & ST (P.A.) Act, Muzaffarpur/concerned Court in connection with Motipur P.S. Case No. 255 of 2023.

(Ramesh Chand Malviya, J)

Brajesh Kumar/-

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