

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1297 of 2025

Arising Out of PS. Case No.-72 Year-2021 Thana- DUMARIYA District- Gaya

Mukesh Singh Bhokta Son of Ramanandan Singh Bhokta Resident Of
Village- Kachhar, Ps- Chhakarbandha, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Rajendra Singh Son of Sarju Singh Bhokta Resident of Village- Monwar,
P.S.- Dumaria, Distt.- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Md. Javed Jafar Khan, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, SPP
For the Informant	:	Mr. Shambhu Sharan Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 17-09-2025 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State, learned counsel for the
informant/Respondent No. 2 and perused the case diary.

2. The instant appeal has been filed by the appellant
against the order dated 07.02.2025 passed by learned Exclusive
Special Judge, SC/ST Act, Gaya whereby the prayer for bail of
the appellant in connection with Dumaria P.S. Case No. 72 of
2021 under Sections 147, 148, 149, 341, 342, 323, 302, 436,
504, 506, 120(B) of the Indian Penal Code read with Sections 3,



4, 5 of Explosive Substance Act, Sections 16, 18, 19, 20 of U.A.P. Act, Section 3(1)(r)(s)(g) and 3(2)(v) of SC/ST Act was rejected.

3. Prosecution case, in short, is that the informant and his family members were forcibly confined by the accused persons, who tied their hands and separated the children. The informant and five relatives were later taken to different locations, confined and threatened with dire consequences. It is further alleged that the accused persons conspired and killed his brothers and sisters-in-law by hanging.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. Learned counsel for the appellant also submits that the appellant is named in the FIR only on the basis of suspicion. There is no direct or indirect allegation against the appellant rather the same is general and omnibus in nature. Learned counsel for the appellant further submits that the appellant has not taken the caste name of the informant in public view. It is further submitted that the appellant is neither a naxal nor has any concern with the naxal organization. Hence, no offence under the provisions of SC/ST Act is made out against him. The



appellant has no intention to disgrace the image of the informant in public view. The appellant is in custody since 07.04.2023 and has got no criminal antecedent.

5. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the appellant. Learned counsel further submitted that there is ample material against the appellant in the case diary to establish his active participation in the offence beyond the reasonable doubt. Learned counsel further referring to Section 43-D (5) and 43-D(6) of the Unlawful Activities Prevention Act, 1967 submitted that bail must be rejected if there are reasonable grounds for believing that the accusation against person alleged of offences punishable under Chapter IV and VI of the UAP Act is prima facie true. Learned counsel for the State further submitted that since police after investigation submitted charge-sheet under Section 147, 148, 149, 341, 342, 323, 302, 436, 504, 506, 120(B) of the Indian Penal Code read with Sections 3, 4, 5 of Explosive Substance Act, Sections 16, 18, 19, 20 and 38 of U.A.P. Act, prima facie, the involvement of the petitioner in the alleged offences cannot be denied. Learned counsel, therefore, contended that in the light of the present facts and circumstances of the case, the prayer of the appellant for grant of bail may be



rejected.

6. For better appreciation of the case, Section 43-D of UAP Act, is quoted hereinbelow:-

“ 43-D. Modified application of certain provisions of the Code.-

(1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and “cognizable case” as defined in that clause shall be construed accordingly.

(2) (4)

(5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release: Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true.

(6) The restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.

(7) Notwithstanding anything contained in sub-sections (5) and (6), no bail shall be granted to a person accused of an offence punishable under this Act, if he is not an Indian citizen and has entered the country unauthorisedly or illegally except in very exceptional circumstances and for reasons to be recorded in writing.”



7. Section 43-D(5) of the UAP Act modifies the application of the general bail provisions in respect of offences punishable under Chapter IV and VI of the UAP Act. From bare perusal of Section 43-D(5) it is evident that the said Section puts a complete embargo on the powers of the Court to release an accused on bail. The Hon'ble Apex Court in ***Gurwinder Singh vs. State of Punjab and Anr. [(2024) 5 SCC 403]*** has observed that the often quoted phrase "*bail is the rule, jail is the exception*" is not applicable in the cases under UAP Act. It is further observed by the Hon'ble Apex Court that if there are reasonable grounds for believing that the accusation against such person as regards commission of offence(s) under Chapter IV and/or Chapter VI of the UAP Act, is prima facie true, such person shall not be released on bail. After perusing the material available in the case dairy as well as the report submitted by the police under Section 173(2) of the Cr.P.C., it appears that the accusation against the appellant is found, prima facie, true.

8. Having considered the rival submission of the parties and the material placed on record as also taking into account the embargo put under Section 43-D(5) of the UAP Act, this Court is not inclined to grant bail to the appellant at this



junction.

9. Accordingly, the appeal stands dismissed. The trial Court is directed to expedite the trial expeditiously.

(Rudra Prakash Mishra, J)

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