

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3146 of 2025

Arising Out of PS. Case No.-111 Year-2025 Thana- BAUNSI District- Banka

Fantush Yadav @ Fantush Kumar Yadav S/O Arvind Yadav Resident of
village- Bangbariya, P.S.- Bounsi, District- Banka, Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Soweti Murmu W/O Late Bhagwan Kisku Resident of village- Bangbariya,
P.S.- Bounsi, District- Banka, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agarwal, Sr. Advocate Mr. Saroj Kumar Choudhary, Advocate Mr. Kumar Rajdeep, Advocate
For the State	:	Mr. Binay Krishna, SPP
For the Informant	:	Mr. Sanjay Kumar Jha, Advocate

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

ORAL ORDER

6 16-12-2025 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 07.07.2025 passed by learned Additional
Sessions Judge-I-cum-Special Judge, SC/ST (PoA) Act, Banka
whereby the prayer for bail of the appellant in connection with
Bounsi PS Case No. 111 of 2025 instituted under Section 137(2)
of the Bharatiya Nyaya Sanhita, 2023 & Sections 3(2)(va) of
SC/ST Act was rejected. Subsequently, Sections 103(1) & 238
of the BNS, 2023 were added.



3. Prosecution case, in short, is that on 03.04.2025 at about 7:00 PM, the appellant took the informant's husband to Bangbariya with the assurance of returning the next morning. When he did not return and could not be traced, the informant suspected that the appellant had kidnapped her husband and apprehended an untoward incident.

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. The appellant and the deceased shared cordial relations, often consuming liquor together, with no prior dispute or motive. On the alleged day, after drinking together, they went on a tractor where a sudden altercation occurred and the deceased fell, without any intention to kill. The alleged confession is disputed as police-fabricated the same and there is no independent material proving intent or culpability. Learned counsel for the appellant 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. The appellant has no intention to disgrace the image of the informant in public view. The appellant is in custody since 06.04.2025 and has 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. It is fervently submitted that appellant has confessed his guilt of concealing the dead body in his confessional statement. As per postmortem report, cause of death is hemorrhagic shock.

6. Considering the aforesaid facts and circumstances of the case, there being no cogent material against the appellant to establish the fact that it is the appellant who has killed the deceased and the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 07.07.2025 passed by learned Additional Sessions Judge-I-cum-Special Judge, SC/ST (PoA) Act, Banka is hereby set aside.

7. Let the appellant be released on bail, ***after framing of charge, if not already framed***, on furnishing bail bonds of Rs.15,000/- (Fifteen thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Bounsi PS Case No. 111 of 2025, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the appellant.



(II) The appellant shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the appellant.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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