

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.5524 of 2024**

Arising Out of PS. Case No.-172 Year-2024 Thana- MAIRWAN District- Siwan

Mahanth Rajbhar @ Mahanath Kumar Rajbhar son of Late Jagdish Rajbhar  
Resident of village- Mudiyari tola, P.S.- Mairwa, District- siwan

... .. Appellant/s

Versus

1. The State of Bihar  
2. Vishal Kumar Gond, S/o Umesh Gond, R/o Village Mudiyari, P.S. Mairwa,  
Dist. Siwan.

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Gajendra Kumar Singh, Adv.  
For the Respondent/s : Mr.Binay Krishna, SPP

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

ORAL ORDER

3      11-04-2025                      Heard learned counsel for the appellant and learned  
Special Public Prosecutor for the State. In spite of valid service  
of notice, no one has appeared on behalf of the respondent no.2.  
Perused the case diary.

2. The instant appeal has been filed by the appellant  
against the order dated 14.11.2024 passed by learned 1<sup>st</sup>  
Additional Sessions Judge-cum-Special Judge, Siwan whereby  
the prayer for bail of the appellant in connection with Special  
Case No. 150 of 2024 arising out of Mairwa Case No. 172 of  
2024 under Sections 302, 120(B) & 201 of the Indian Penal  
Code and Section 3(2)(v) of the SC/ST (POA) Act, was rejected.



3. As per prosecution case, the accused persons including the appellant called the brother of the Informant from his house and, thereafter, committed his murder. It is further alleged that after commission of murder, they hide the dead-body in the bushes at the bank of Jharhi river.

4. Learned counsel for the appellant submits that the appellant is innocent and has committed no offence as alleged in the F.I.R. and has falsely been implicated in the present case merely on the basis of suspicion. Except suspicion, there is no concrete evidence which connects the appellant with the alleged occurrence. He further submits that though as per F.I.R., it appears that the deceased was brutally killed but, from the postmortem report, no external injury has been found on the body of the deceased rather apprehension of intake of poison has been raised. From perusal of the F.I.R. itself, it appears that the dead body of the deceased was recovered on the basis of the disclosures made by the co-accused Santu Singh. The F.I.R. has been lodged in this case after 24 hours of the time of occurrence without there being any plausible explanation for such delay. There is no eye-witness to the alleged occurrence. There is no evidence against the appellant but, merely on the basis of suspicion, the charge-sheet has been submitted in this case. The



postmortem report also contradicts the narration floated by the Informant in the F.I.R. The appellant has no concern with the alleged occurrence or with the co-accused persons. The appellant is in custody since 18.06.2024 and has no criminal antecedent. Learned counsel for the appellant further submits that the prayer for bail of the co-accused Mukesh Kumar has already been granted by this Court vide order dated 19.11.2024 passed in Cr. Appeal (SJ) No. 4267 of 2024.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant.

6. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the appellant as also the prayer for bail being based on parity, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 14.11.2024 passed by learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, Siwan is hereby set aside.

7. The appeal stands allowed.

8. Let the appellant, abovenamed, 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 Court below/concerned Court in connection with Special Case No. 150 of 2024 arising out of Mairwa Case No. 172 of 2024,



subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the appellant.

(ii) The appellant shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

**(Rudra Prakash Mishra, J)**

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