

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5610 of 2024

Arising Out of PS. Case No.-301 Year-2023 Thana- ARWAL District- Jehanabad

Ezaz @ Shamshad Khan S/O Wazir Khan R/O- Village- Malhi Patti, P.S.-
Arwal, District- Arwal.

... .. Appellant/s

Versus

1. The State of Bihar
2. Jamuna Das S/O Late Narayan Das R/O- Village- Malhi Patti, P.S.- Arwal,
District- Arwal.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Saroj Kumar Sharma, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, SPP
For the Informant	:	Mr. Amrendra Kumar Singh, Adv.

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

ORAL ORDER

3 14-02-2025 Heard learned Senior counsel for the appellant and

learned Special Public Prosecutor for the State as also learned

counsel for the Informant.

2. Learned counsel for the appellant prays for and is

allowed to make necessary correction in Para-3 of the instant

appeal in course of the day.

3. The instant appeal has been filed by the appellant

against the order dated 28.11.2024 passed by learned Additional

District Judge-1 cum Special Judge SC/ST Act, Jehanabad

whereby the prayer for bail of the appellant in connection with

Arwal P.S. Case No. 301 of 2023 under Sections 302, 504, 380

of the Indian Penal Code and Section 3/4 of Prevention of Dian



Act and Section 3(1)(r)(s), 3(2)(va) of SC/ST (POA) Act was rejected.

4. The prosecution case, in short, is that on 07.06.2023, all the accused persons including the appellant abused the mother of the informant and called her *daain*. It is further alleged that when the informant went to his *sasural*, all the accused persons committed murder of his mother.

5. Learned senior counsel for the appellant submits that the appellant has falsely been implicated in the present case only on the basis of suspicion and village politics. Learned counsel further submits that there is no eye-witness to the alleged occurrence. There is a delay of 9 days in lodging the FIR. Learned counsel further submits that except suspicion, there is no any direct or indirect evidence against the appellant as also there is no previous enmity between the parties. There is no independent witness to the alleged occurrence rather the same are interested witnesses. The allegation against the appellant is general and omnibus in nature. Except suspicion, there is no iota of evidence against the appellant corroborating the alleged occurrence. 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 them. The appellant has no intention to disgrace the image of the informant in public view. The appellant is in custody since 20.11.2024 and has one criminal antecedent. Co-accused have been granted bail by this Bench vide order dated 04.04.2024 passed in Cr. Appeal (SJ) No. 5397 of 2023.

6. Learned Special P.P. for the State and the Informant have vehemently opposed the prayer for grant of bail to the appellant, stating that during the investigation, witnesses have supported the prosecution version. Learned APP further submitted that in the postmortem report, the cause of death is asphyxia due to strangulation and, submits that the nature of offence is heinous and, thus, the appellant does not deserve bail.

7. Considering the aforesaid facts and circumstances of the case and there being no specific allegation of any overt act against the appellant 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 28.11.2024 passed by learned Additional District Judge-1 cum Special Judge SC/ST Act, Jehanabad, is hereby set aside.

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 Arwal P.S. Case No. 301 of 2023.

(Rudra Prakash Mishra, J)

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