

(2022) 12 PAT CK 0027

Patna High Court

Case No: Criminal Appeal (SJ) No. 2445 Of 2022

Mendar Singh @ Vijay Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Dec. 8, 2022**Acts Referred:**

- Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3(2)(s), 3(2)(v), 14A(2)
- Indian Penal Code, 1860 - Section 34, 182, 211, 302
- Code Of Criminal Procedure, 1973 - Section 437(3)

Hon'ble Judges: Arun Kumar Jha, J**Bench:** Single Bench**Advocate:** Sanjiv Kumar Singh, Ashok Kumar, Sadanand Paswan, Bijay Prakash Singh**Final Decision:** Allowed

Judgement

Heard learned counsel for the appellant and learned app for Let the defect (s), as pointed out by the office, be removed within a period of four weeks.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of

prayer for bail vide order dated 05.07.2022 passed by the learned 1st Additional Session Judge-cum-Special Judge, Siwan in connection with Special

Case No. 131 of 2018 arising out of Basantpur P.S. Case No. 136 of 2016 registered for the alleged offences under Sections 302 and 34 of the Indian

Penal Code and Sections 3(2) (v) (s) of the Scheduled Castes and Scheduled Tribes Act. (Prevention of Atrocities) Act, 1989.

As per prosecution case, husband of the informant was shot dead in a temple and the informant named the appellant and other co-accused persons

who committed the murder of her husband in the background of some earlier dispute.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. After investigation police

submitted a closure report showing the acquisition to be untrue. However, learned Special Court took cognizance against this appellant differing from

the final form submitted by the police. Learned counsel further submits that on the date of occurrence the appellant was not even present at the place

of occurrence, the appellant was attending the tilak ceremony of his sister at a place which was 25 K.M. away from the place of occurrence.

Learned counsel further submits that due to previous enmity and grudge this appellant was named in this case as the appellant's family had earlier

filed applications before the S.P. and the D.M. and other authorities on different dates for removal of encroachment by the informant and others in the

Mathiya land and for this reason, the informant has lodged this false case against the appellant and others. Earlier also the informant had filed

a complaint case vide Complaint Case No. 1082 of 2014 against the appellant's family and the same was registered as SC/ST Siwan P.S. Case

No. 64 of 2014 and after investigation, the police found the case false and recommended to proceed under Sections 182 and 211 of the Indian Penal

Code against the informant of the present case. The appellant used to live in Delhi for his livelihood and he had come to attend the wedding ceremony

of his sister and has been falsely implicated in this case. Charge sheet has been submitted in this case and the appellant is in custody since 10.06.2022.

The appellant has got clean antecedent.

Learned counsel appearing on behalf of the informant opposes the submission made on behalf of the appellant. Learned counsel for the

informant/respondent no. 2 submits that the informant has named this appellant in the written report given for lodging of the F.I.R. and the appellant

and other co-accused persons were the last persons who were present at the Mathia when the death of the husband of the informant took place.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and further considering the fact that the allegation against

the appellant is on suspicion of the informant and there is possibility of false implication and further considering the submission of charge sheet against

him and his clean antecedent, the appellant above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand)

with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Siwan in connection with

Special Case No. 131 of 2018 arising out of Basantpur P.S. Case No. 136 of 2016, subject to the conditions mentioned in Section 437(3) of the Code

of Criminal Procedure and also the following conditions:

(i) One of the bailors will be a close relative of the appellant.

(ii) The appellant will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

(iv) The bail bond of the appellant will be accepted subject to verification of the claim that he is having no criminal antecedent.

Accordingly, the impugned order is set aside and the appeal stands allowed.