

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal No.5496 of 2019(SJ)

Vivek Singh, aged about 24 years, (Male) Son of Kapil Singh, resident of village-Nautan, Police Station-Marhaura (Madaura), District-Saran	Appellant
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Versus	
The State of Bihar	Opposite party
.....	

Appearance

For the Petitioner	: Mr. Yogesh Chandra Verma, Sr. Adv. Mr. Pramod Kumar Singh, Adv.
For the State	: M/s Usha Kumari, A.P.P.
For the informant	: Mr. Vijay Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 22.05.2020 Heard learned Senior counsel for the appellant, learned APP for the State and learned counsel for the informant through video conferencing.

The instant appeal has been preferred by the appellant under sec 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC and ST Act') against the order dated 17.10.2019 passed by learned Additional District and Sessions Judge, SC/ST Saran whereby he was pleased to reject the application for regular bail of the appellant in connection with Marhaura (Madaura) P.S. Case No.199 of 2019.

Marhaura (Madaura) P.S. Case No.199 of 2019 was registered under sections 302, 201 and 34 of the Indian Penal Code and sections 3(1)(v) and 3(2)(va) of the SC and ST Act.

As per allegation in the F.I.R., it is stated by the informant that on the previous day the appellant took away his



grandson on a motorcycle. His grandson did not return. Thereafter it is stated that next morning the dead body of his grandson with his throat slit was found in the bushes. He states that it is the appellant along with other accused persons who have committed the murder of his grandson.

It is submitted by learned counsel for the appellant that the appellant has been falsely implicated in the case due to pending land dispute between the parties. It is further submitted that except for suspicion, no material has transpired against him. There has been no recovery of any incriminating article and at best the case of the prosecution against the appellant can be said to be one of last seen, which by itself would not be material enough for conviction of the appellant. It is submitted that the appellant has got no criminal antecedent, chargesheet has been submitted in the case and he is in custody since 15.7.2019.

The appeal is opposed by learned APP for the State and also by learned counsel for the informant.

Learned counsel for the informant submits that there is direct allegation against the appellant. He is not only named in the F.I.R but he was the person who took away the grandson of the informant and thereafter his dead body was recovered. It is further submitted that the trial has already commenced and two prosecution witnesses have been examined.

Having heard learned counsel for the parties and taking into consideration the facts of the case, especially, that the case of



the appellant is one of last seen and he is in custody since 15.7.2019, this Court is inclined to enlarge the appellant on bail.

The order dated 17.10.2019 passed by the learned Additional District and Sessions Judge-cum-SC/ST, Saran in connection with Marhaura (Madaura) P.S. Case No.199 of 2019 rejecting the regular bail application of the appellant is set aside. The appellant is directed to be enlarged on bail in connection with Marhaura (Madaura) P.S. Case No.199 of 2019 on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-cum-Special Judge, SC/ST, Saran.

In view of the submission on behalf of the informant that the trial has commenced, it is directed that the appellant shall remain personally present in Court on each date of the trial and in case of his absence on two consecutive dates for reasons not to the satisfaction of the learned trial Court, the bail of the appellant shall be cancelled and he shall be taken into custody till conclusion of the trial.

The appeal stands allowed.

(Partha Sarthy, J)

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