

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5756 of 2019

Arising Out of PS. Case No.-7 Year-2017 Thana- PAKRIDAYAL District- East Champaran

RAKESH SINGH S/o Bhola Singh Resident of Village- Sirha, P.S.-
Pakaridayal, Dist- East Champaran.

... .. Appellant/s

Versus

THE STATE OF BIHAR

.. ... Respondent/s

Appearance :

For the Appellant/s	:	M/s Umesh Chandra Verma Abhishek Kumar, Advocates
For the Respondent/s	:	Mr.Usha Kumari 1, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

3 11-06-2020 The office vide its report dated 10.6.2020 submitted that some defects still exists. However, the defects, as pointed out by the office, dated 10.6.2020, are ignored.

Heard learned counsel appearing for the appellant as well as learned Special Public Prosecutor for the State through video conferencing.

This criminal appeal has been preferred under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 against the order dated 25.9.2019 passed by the learned 1st Additional Sessions Judge – cum – Special Judge SC/ST Act, East Champaran at Motihari in Pakridayal P.S. Case No. 7 of 2017 corresponding to Trial No. 61 of 2019 by which and whereunder the learned Special Judge rejected the bail prayer of the appellant on the ground that the appellant had confessed his



guilt before the police and appellant does have criminal antecedents of five cases.

Learned counsel appearing for appellant submits that except so-called confessional statement of appellant as well as others, there is nothing against the appellant. He, further, submits that, admittedly, Pakaridayal P.S. Case No. 7 of 2017 was lodged against unknown persons and in course of investigation, the appellant was dragged in this case. He, further, submits that, moreover, having more or less similar allegation as well as similarly situated co-accused Niranjana Kumar Singh, Vijay Singh, Nitesh Singh @ Niteshwar Singh @ Nitu Singh and Guddu Singh @ Niraj Kumar Singh have already been granted privilege of bail, whereas appellant is languishing in jail custody since 20.11.2018.

On the other hand, learned Spl. P.P. opposed the prayer pointing out that prior to alleged occurrence, the appellant was made accused in, altogether, five cases of serious nature and the aforesaid fact goes to show that appellant happens to be the habitual offender. Learned counsel of the State, further, submits that in confessional statement appellant admitted that he made indiscriminate firing from A.K. 47, as a result of which, three persons were killed.



Having heard the contentions of the parties, I went through the record. The written report of the informant goes to show that some unknown persons made indiscriminate firing causing injuries to three persons, who died subsequently. Admittedly, FIR was lodged against unknown persons and except the confessional statement of appellant as well as confessional statement of other co-accused, there appears to be nothing against the appellant. However, it is admitted position that having more or less similar allegation several co-accused have already been granted privilege of bail by different Benches of this Court.

No doubt, the appellant does have criminal antecedents of five cases, which is evident from paragraph 3 of memo of appeal yet I find that in almost all the cases except one, the appellant has already been allowed bail. Moreover, mere criminal antecedent is not sufficient to detain any person in judicial custody unless there is other materials to justify his detention in jail custody.

Considering the aforesaid facts and circumstances as well as submissions of the parties, this criminal appeal is allowed and, accordingly, impugned order dated 25.9.2019 passed by the learned 1st Additional Sessions Judge – cum –



Special Judge SC & ST Act, East Champran at Motihari in
Pakaridayal P.S. Case No. 7 of 2017 is, hereby, set aside.

Accordingly, the above named appellant is directed to
be released on bail on furnishing bail bond of Rs. 10,000/- (Ten
Thousand) with two sureties of the like amount each to the
satisfaction of learned 1st Additional Sessions Judge – cum –
Special Judge SC & ST Act, East Champran at Motihari in
Pakaridayal P.S. Case No. 7 of 2017, subject to condition that
the appellant shall not induced any witness or tamper with the
prosecution witness and if he does so, the prosecution shall have
right to file petition for cancellation of bail of the appellant and
if prosecution files any petition for cancellation of bail of the
appellant, the learned trial court shall pass appropriate order on
the said petition after due and proper inquiry.

In the aforesaid manner, this appeal stands disposed
of.

(Hemant Kumar Srivastava, J)

Spd/-

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