

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1063 of 2021**

Arising Out of PS. Case No.-149 Year-2020 Thana- KHAJANCHI HAT District- Purnia

HEMANT KUMAR @ KUMAR HEMANT Son of Sanjay Singh @ Sanjay Kumar Singh Resident of Mohalla - Subhash Nagar, P.S.- Sahayak Khajanchi, District - Purnea

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Arvind Kumar

For the Respondent/s : Mr.Pramod Kumar Pandey, APP

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2 02-03-2021 Heard learned counsel for the appellant and the State.

The present memo of appeal has been filed on behalf of the appellant for grant of bail against the order dated 28.11.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST Act), Purnea in connection with K.Hat (Sahayak) P.S. Case No. 149 of 2020 (Special SC/ST Case No. 37 of 2020) under Section 302/34 of the Indian Penal Code and section, section 27 of the Arms Act and section 3(2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for bail of the appellant was rejected.

Prosecution case in brief is that on 10.03.2020 at 2.00 pm, husband of informant received phone call of his friend Santosh Yadav and thereafter, he went to play Holi at the house



of his friend Manish Rai and Suman Kumar, Hemant Kumar (petitioner) and Sonu Kumar was also there. At 4.00 pm in the evening the Director Oasis School, called the informant on her mobile and informed that his husband sustained bullet injury and he is severely injured. Informant and others reached there and took her husband to the hospital for treatment, where the doctor declared him dead. It is further alleged that after hatching up criminal conspiracy all the accused persons killed her husband.

It is submitted on behalf of the appellant that from perusal of FIR itself, it is apparent that informant's husband was called by co-accused Santosh Yadav and blood stain was found in the house of co-accused Manish Rai. So far as this appellant is concerned, save and except suspicion there is no material against him. Informant is not the eye-witness of the occurrence. No case under SC/ST Act is made out. Appellant has got clean antecedent and is in custody since 16.09.2020. Chargesheet has already been submitted.

However, counsel for the informant vehemently opposed the bail application and submitted that co-accused Sonu in his confessional statement has taken name of this appellant and also stated about his involvement in the said crime.

Considering the aforesaid facts, this appeal is allowed.



The impugned order dated 28.11.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST Act), Purnea is set aside.

Let the appellant above-named, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST Act), Purnea in connection with K. Hat (Sahayak) P.S. Case No. 149 of 2020 (Special SC/ST Case No. 37 of 2020), subject to following conditions:-

(i) The appellant shall co-operate 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.

(ii) If the appellant tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the appellant.

(Prabhat Kumar Singh, J)

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