

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1091 of 2021**

Arising Out of PS. Case No.-19 Year-2020 Thana- BITHAN BAZAR District- Samastipur

RUSTAM YADAV @ RUSTAM KUMAR @ RUSTAN KUMAR S/o
Ramchandra Yadav Resident of Village- Suraha Bashantpur, P.S.- Bithan,
District- Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Abhimanyu Sharma
For the Respondent/s : Mr.Binay Krishna

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

2 01-03-2021 Heard learned counsel for the appellant and learned
Special P.P. for the State.

The present appeal has been filed against the order dated 06.11.2020 passed by learned Additional Sessions Judge cum Special Judge, SC/ST Act, Samastipur in connection with Bithan P.S. Case No. 19/2020 registered for the offences punishable under Sections 302/120B of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, whereby the prayer for regular bail of appellants was rejected.

As per the prosecution case, while the father of the informant was returning home on motorcycle along with the



informant, six miscreants on three motorcycles intercepted him, asked his name and one of the miscreants shot him as a result of which he died on the way to hospital. It is further alleged that four named accused persons with whom informant's father has animosity have committed murder of his father.

It is submitted on behalf of the appellant that appellant is not named in the FIR, his name surfaced during the course of investigation on the basis of confessional statement of co-accused Nasiruddin Sah which has no evidentiary value. It is further submitted that save and except confessional statement, there is no cogent material to show the complicity of this petitioner with the aforesaid crime. It is next submitted that FIR has been lodged against four known persons against whom there is specific allegation that they have killed his father with the help of unknown miscreants. It is submitted that informant's friend Rakesh Kumar, who was witness of the occurrence, failed to identify any of the miscreants and has not named this petitioner or raised any doubt against this petitioner. Chargesheet has already been submitted in this case. Petitioner is in custody since 10.08.2020 having no criminal antecedent.

Considering the aforesaid facts and circumstances as well as nature of allegation, the impugned order dated



06.11.2020 passed by learned Additional Sessions Judge cum Special Judge, SC/ST Act, Samastipur in connection with Bithan P.S. Case No. 19/2020 is set aside and appeal is allowed.

Accordingly, let the appellant, above named, be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge, S.C./S.T. Act, Samastipur, in connection with Bithan P.S. Case No. 19/2020, subject to following conditions:-

- (1) Petitioner 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 on his absence on two consecutive dates without sufficient reason, his bail-bonds shall be cancelled by the Court below.
- (2) If the petitioner tempers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Prabhat Kumar Singh, J)

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