

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1257 of 2021**

Arising Out of PS. Case No.-244 Year-2020 Thana- UDWANTNAGAR District- Bhojpur

Abhinav Kumar @ Ankit Ojha Son of Akhilesh Ojha Resident of Village -
Aroua, P.S.- Udawantnagar, District - Bhojpur.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr. Sheo Jee Mishra, Advocate

For the Respondent/s : Mr. Binay Krishna No. 1, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 10-03-2021 Learned counsel for the appellant undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellant and Mr. Binay Krishna No. 1, learned Spl.P.P for the State.

The appellant in the present case is seeking set aside of the order dated 16.10.2020 in Udaqantnagar P.S. Case No. 244 of 2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST) Act, Bhojpur at Ara whereby and whereunder the prayer for bail of the appellant registered for the offences punishable under Sections 302/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r), 3(2)(r) of SC/ST Act has been rejected.

Learned counsel for the appellant submits that in the First Informant Report, 18 persons have been named. It is



alleged that when the informant and her family members including her husband were planting paddy in her field, FIR named accused persons variously armed, assembled there. It is alleged that on instigation of co-accused Rajnish Ojha, co-accused Kamlesh Ojha opened fire with his rifle. The informant's husband sustained firearm injuries and died during course of treatment at PMCH.

Learned counsel submits that the appellant is innocent and has falsely been implicated in the present case. It is submitted that there is case and counter case lodged on the same day for the same occurrence. It is submitted that the allegation of firing is against co-accused Kamlesh Ojha. It is further submitted that all other co-accused who are named in the FIR have been granted privilege of bail by learned Co-ordinate Benches of this Court. The appellant is in custody since 12.07.2020 having no criminal antecedent.

Learned Spl.P.P. for the State has opposed the prayer for regular bail of the appellant.

Having regard to the facts and circumstances of the case, wherein there is a case and counter case of the alleged occurrence lodged on the same day giving different versions of the story, the informant claims that she is an eye-witness but she



has not named this appellant either as assailant or an accomplice, the allegation of firing is against co-accused Kamlesh Ojha and further submission that all other co-accused who are named in the FIR have been granted privilege of bail by learned Co-ordinate Benches of this Court in Cri. Appeal (SJ) No. 1957 of 2020 and Cri. Appeal (SJ) No. 2162 of 2020, this appellant is said to be an engineering graduate and has been falsely implicated in this case, he is in jail in connection with this case since 12.07.2020, he has otherwise no criminal antecedent, the impugned order is set aside.

Let the appellant above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST) Act, Bhojpur at Ara in connection with Udaqantnagar P.S. Case No. 244 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and



(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedents of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bond in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The appeal stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

