

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1364 of 2021

Arising Out of PS. Case No.-143 Year-2020 Thana- KARAKAT District- Rohtas

Kamlesh Kumar Yadav aged about 32 years (Male) S/O Umesh Yadav
Resident of Rajpur, P. S.- Imadpur, District- Bhojpur

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ghanshyam Tiwary, Advocate
For the Respondent/s : Mr. Binay Krishna Spl PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 24-07-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

Learned counsel for the appellant is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

Heard learned counsel for the appellant and learned Spl PP for the State.

The appellant has preferred the present appeal under Section 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity , *SC/ ST Act*) against the refusal of his prayer for regular bail vide order dated 17.12.2020 passed by learned Additional District and Sessions Judge -I-cum-Special Judge SC/ST Act, Rohtas, Sasaram, in a case registered under Sections 447,341,323,326,307,and 504/34 of the Indian Penal Code, Section 25(1-b)a, 26,27, and 35 of the



Arms Act and Sections 3(i)(r)(s) of the SC/ST Act, in connection with Karakat PS Case No. 143 of 2020, Registered Case No. 224 of 2020.

The specific allegation in the F.I.R. is that co-accused Mantu Yadav @ Vikash Yadav has fired upon the husband of the informant. Against the appellant, it is alleged that he has exhorted the assailant to fire.

The learned counsel for the appellant submits that he is repeatedly being implicated in cases of similar nature. Karari P.S. Case No. 197 of 2019 and Kacchwa P.S. Case No. 21 of 2020 have earlier been lodged against the appellant under the SC/ST Act. This case is also a sequel to the cases being filed against him based on group rivalry. Admittedly, as per the prosecution case, appellant is not the assailant and even as per investigation, at best, the allegation against the appellant is of exhorting the co-accused to fire upon the informant's husband. The appellant is stated to be in custody since 04.09.2020.

The learned Spl. PP for the State has opposed the prayer for bail. He has submitted that there are two criminal antecedents of the appellant and being an order giver, he cannot escape from his criminal liability.

In my opinion, a case for grant of regular bail is made out. The impugned order dated 17.12.2020, passed in connection with Karakat PS Case No. 143 of 2020, Registered Case No. 224 of 2020, requires interference by this Court, which is, accordingly set aside.

Considering the rival submissions, this appeal is allowed. The impugned order dated 17.12.2020, passed by learned Additional District and Sessions Judge -I-cum-Special Judge



SC/ST Act, Rohtas, Sasaram, in connection with Karakat PS Case No. 143 of 2020, Registered Case No. 224 of 2020, is set aside.

Let the appellant, above named, 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 the learned Additional District and Sessions Judge -I-cum-Special Judge SC/ST Act, Rohtas, Sasaram, in connection with Karakat PS Case No. 143 of 2020, Registered Case No. 224 of 2020, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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