

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.1649 of 2021**

Arising Out of PS. Case No.-131 Year-2020 Thana- KHAGAUL District- Patna

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VIJAY KUMAR @ KADIR KHAN @ KADAR PASWAN S/o Dilip Paswan
R/o Nakhas Mangal Adhada, P.S.- Malsalami, Distt.- Patna.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr. Subodh Kumar, Advocate
For the Respondent/s : Ms. Usha Kumari, Spl. PP

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

2 08-04-2021 Learned counsel for the appellant undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

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

The present appeal has been preferred for setting aside the order dated 17.12.2020 passed by learned Additional Sessions Judge-III-cum-Special Judge, SC/ST, Patna in Special Case No. 429 of 2020 arising out Khagaul P.S. Case No. 131 of 2020 (G.R. No. 3060 of 2020) registered for the offences punishable under Sections 323, 341, 307 and 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i), (r), (s)/3(2)(va) of the SC/ST (POA) Act whereby prayer for bail of



the appellant was rejected.

Learned counsel for the appellant submits that as per the prosecution story, on 08.07.2020, the informant was doing sanitisation work at Chanakyapuri, accused persons named in the F.I.R. and one unknown came there and it is alleged that Deepak @ Teni Paswan fired upon the informant with country-made pistol resulting an injury in the left rib of the informant.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case merely on confessional statement of the co-accused. Learned counsel further submits that the appellant is not named in the F.I.R. It is further submitted that there is no allegation of firing against the appellant. The appellant has got no criminal antecedent and is in custody since 09.08.2020.

Learned Spl. P.P. for the State is present and has opposed the prayer for bail of the appellant.

Having regard to the facts and circumstances of the case and uncontroverted submission of learned counsel for the appellant that this appellant is not named in the F.I.R., however his name has transpired in the confessional statement of the co-accused as a person who was present with the co-accused, still there is no allegation of firing against him and the specific overt



act has been alleged against co-accused Dilip Kumar, this appellant also happens to be member of the Scheduled Caste and has remained in jail in connection with the present case since 09.08.2020, he has otherwise no criminal antecedent, the impugned order is set aside.

Let the appellant 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 Special Judge, SC/ST-cum-Additional Sessions Judge-III, Patna in connection with Special Case No. 429 of 2020 arising out Khagaul P.S. Case No. 131 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 antecedent 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 bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This appeal is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

