

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1698 of 2021**

Arising Out of PS. Case No.-26 Year-2013 Thana- NAWADA District- Nawada

Rustam, male aged about 33 years, s/o Md. Ayub Khan resident of village Mirdatoli Nawada, P.S. Nawada, District- Nawada.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner	:	Mr. Sahvind Kumar Sharma, Advocate
For the State	:	Mr. Sadanand Paswan, Spl PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 29-06-2021 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.

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

3. 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 25.01.2021 passed by Additional District and Sessions Judge- Ist, Nawada -cum- Special Judge SC/ST Act , Nawada, in a case registered under Section 302/34 of the Indian Penal Code and Sections 3/2/5 of the SC/ST, in connection with Nawada PS Case No.26 of 2013, Special case no. 226 of 2020.

4. The informant has alleged that appellant along with some other named co-accused persons came to her house at 8 O'clock and asked her husband to accompany them. Two hours later, she has alleged that she heard the sound of crying and on



reaching the place of occurrence, saw the appellant and other co-accused persons were trying to strangle her husband.

5. The submission is that even as per prosecution case the victim has accompanied the instant appellant and other co-accused persons without any coercion and on his own will. Subsequently, the informant has filed a compromise petition which is annexed as Annexure 2 to the bail application, wherein, she has stated that the issue has been compromised since then. The allegation that appellant and other co-accused persons were trying to strangle the victim in the field is belied by the postmortem report. No external injuries other than the ligature mark on the upper part of the neck has been found on the victim's body. This indicates death due to suicide. The appellant is in custody since 09.01.2020, on which date, he has surrendered in the Court below. This is also indicative of the appellant's *bona fide*.

6. The learned Spl. PP for the State has opposed the prayer for bail.

7. In my opinion, a case for grant of regular bail is made out. The impugned order dated 25.01.2021, passed in connection with Nawada PS Case No.26 of 2013, Special case no. 226 of 2020, requires interference by this Court, which is, accordingly set aside.

8. Considering the rival submissions, this appeal is allowed. The impugned order dated 25.01.2021, passed by Additional District and Sessions Judge- Ist, Nawada -cum- Special Judge SC/ST Act, Nawada, in connection with Nawada PS Case No.26 of 2013, Special case no. 226 of 2020, is set aside.

9. 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 -Ist, Nawada -cum- Special Judge SC/ST Act , Nawada, in connection with Nawada PS Case No.26 of 2013, Special case no. 226 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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